United Nations A/72/313

General Assembly

Distr.: General
10 August 2017

Original: English

Seventy-second session
Item 53 of the provisional agenda*
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Persons displaced as a result of the June 1967 and subsequent hostilities

Report of the Secretary-General

Summary

In its resolution 71/92, the General Assembly requested the Secretary-General, after consulting the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, to report on progress made with regard to the implementation of the resolution, which relates to persons displaced as a result of the June 1967 and subsequent hostilities.

The present report pertains to correspondence between the Secretary-General and the Permanent Representative of Israel to the United Nations regarding action taken by the Government of Israel in implementing the relevant provisions of the resolution. It also presents information made available by the Commissioner-General to the Secretary-General on the return of refugees registered with the Agency to the West Bank and the Gaza Strip from Jordan, Lebanon and the Syrian Arab Republic.

* A/72/150.

17-13840 (E) 210817

Please recycle

1. The present report is submitted pursuant to resolution 71/92, by which the General Assembly requested the Secretary-General, after consulting the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), to report on the progress made with regard to the implementation of the resolution.

2. On 19 May 2017, the Secretary-General addressed a note verbale to the Permanent Representatives of Member States, including the Permanent Representative of Israel, in which he drew attention to his reporting responsibility under resolutions 71/91 to 71/94 and requested them to inform him of any action that their Governments had taken or envisaged taking concerning the implementation of the relevant provisions of the resolutions.

3. In a note verbale dated 26 July 2017, the Permanent Mission of Israel replied as follows:

> The Permanent Mission of Israel to the United Nations has the honour to refer to the note concerning resolutions 71/91 to 71/94 adopted by the General Assembly on 6 December 2016 under the agenda item "United Nations Relief and Works Agency for Palestine Refugees in the Near East".
>
> Israel decided, once again, to vote against these resolutions, owing to their apparent political motive and the fact that they represent a one-sided view that fails to reflect the reality on the ground.
>
> Israel supports the humanitarian activities of the "United Nations Relief and Works Agency for Palestine Refugees in the Near East" in line with its original and primary mandate of aiding the refugees and carrying out direct relief and works programmes.
>
> Nevertheless, Israel remains deeply concerned regarding the agency's persistent use of humanitarian funding for the purpose of advocacy. Israel is troubled by the agency's perpetuation of a one-sided narrative about the conflict in our region, with the refugees serving as the primary means of achieving this goal.
>
> Instead of focusing on relief and humanitarian assistance, UNRWA chooses to promote a controversial political agenda. One example is the agency's proactive campaigns supporting the so-called "right of return" for millions of Palestinians. The question of Palestinian refugees has not been agreed between Israel and the Palestinians and can be resolved only through direct bilateral negotiation between the parties. It is unacceptable for a United Nations agency to actively promote the agenda of one side of the conflict. UNRWA advocacy in this regard is inappropriate and undermines efforts to achieve a political solution.
>
> Unfortunately, along with UNRWA use of humanitarian funding for the purpose of political campaigns, we have witnessed through the years many examples of misconduct by the agency and its employees.
>
> Recently, UNRWA personnel have even been found within the ranks of the internationally designated terrorist organization, Hamas. In February 2016, Israeli authorities revealed that the Chairman of the UNRWA Staff Union in the Gaza Strip and Principal of the UNRWA boys elementary school for refugee children, Suhail al-Hindi, had been elected to the political bureau of Hamas. This is the same al-Hindi who was suspended in 2011 by UNRWA after meeting with the Hamas leader, Ismail Hania. His suspension lasted only three months, after which al-Hindi was allowed to return to his prior position.

Likewise, Muhammad al-Jamasi, the head of the UNRWA engineering department, was also reportedly elected to the Hamas political bureau.

At first, UNRWA denied the allegations regarding its employees. Only after being confronted with irrefutable evidence of their terrorist connections did the agency suspend al-Hindi and al-Jamasi, providing no further information on the circumstances of their dismissal. Moreover, only when publicly questioned about the incident by Israel's Mission to the United Nations did the UNRWA Commissioner-General confirm al-Hindi's dismissal. Even then, the UNRWA Commissioner-General attempted to reduce the offence, claiming that al-Hindi had been dismissed because he "ran for an elected office".

These are just two recent examples of UNRWA misconduct. The agency's employees have often engaged in egregious acts, including calls to commit acts of violence against Israelis on social media.

The indications that UNRWA employees are working on behalf of Hamas, while others are inciting violence, raise serious questions about the agency's monitoring and vetting processes. UNRWA must assume responsibility for any misconduct by its staff and affiliates and uphold the necessary standards of accountability and transparency. The agency must conduct thorough investigations into any and all cases of suspected violations of the United Nations standards of conduct by its employees and should present a public report on such issues in a timely manner.

Another grave concern arose last month when it was confirmed that Hamas had built a terror tunnel beneath two adjacent UNRWA elementary schools in Gaza, under the Maghazi Elementary Boys A&B School and the Maghazi Preparatory Boys School.

The discovery of this terror tunnel, placed directly under the classrooms of young children, is not an isolated incident. Rather, it is the latest example of a series of alarming attempts by Hamas terrorists to systematically exploit the organs of the United Nations. Hamas' gross misuse of civilian infrastructure is not new either. In fact, it was the terror group's modus operandi during the 2014 Gaza conflict. Hamas' activities not only place the people of Israel and Gaza at risk, but also severely damage humanitarian efforts in Gaza. It is crucial that all United Nations-affiliated agencies, especially UNRWA, remain neutral and safeguarded from abuse by terrorist organizations. UNRWA should take the appropriate measures to ensure that attempts by terrorists to exploit its facilities will not succeed.

In the light of Hamas' unrelenting attempts to exploit civilian infrastructure and humanitarian assistance, Israel is concerned by the fact that the UNRWA Commissioner-General refrains from recognizing Hamas' responsibility for the dire situation in Gaza. In his latest statement, on 12 June 2017, assessing the situation in the Gaza Strip, the Commissioner-General omitted any mention of Hamas' decade-long control of Gaza and its detrimental impact on the humanitarian situation in the Gaza Strip. Regrettably, the Commissioner-General has also failed to condemn Hamas' abuse of United Nations facilities and diversion of humanitarian aid for military purposes.

Despite serious security threats, Israel is actively working to support reconstruction efforts in the Gaza Strip. Since October 2014, the United Nations-backed Gaza Reconstruction Mechanism has enabled the entrance of over 8.2 million tons of various types of construction materials into the Gaza Strip. As of January 2017, 102,331 out of 130,000 damaged housing units had been renovated. Over 11,500 new housing units are in advanced stages of

construction, and hundreds more are ready for occupancy. Hundreds of public projects, including schools, clinics, mosques and parks, have been completed or are near completion.

Delays in reconstruction stem predominantly from the actions of Hamas and its conflict with the Palestinian Authority. Hamas refuses to allow the Palestinian Authority to maintain security and civilian control of the Palestinian side of Gaza's border crossings with Israel and Egypt. For its part, the Palestinian Authority seeks to weaken Hamas, which appears to influence the pace and extent of its reconstruction activities.

UNRWA must fulfil its duty to provide a neutral and honest account that represents the real situation on the ground. It must not distort facts and present them in favour of any political narrative.

We call upon UNRWA to return to its original agenda as a relief and works agency and refrain from one-sided, biased political advocacy activities or remarks supporting Palestinian propaganda.

4. In connection with paragraph 5 of resolution 71/92, the Secretary-General has obtained from the Commissioner-General of UNRWA the information available to him on the return of refugees registered with the Agency to the occupied Palestinian territory. As indicated in previous reports on the subject, UNRWA is not involved in any arrangements for the return of refugees, nor is it involved in any arrangements for the return of displaced persons who are not registered as refugees. Its information is based on requests by returning registered refugees for the transfer of their UNRWA registration records from Jordan, Lebanon or the Syrian Arab Republic to the areas to which they have returned. The Agency would not necessarily be aware of the return of any registered refugees who did not request the transfer of their registration records. So far as is known to the Agency, from 1 July 2016 to 30 June 2017, 283 refugees registered with UNRWA returned to the West Bank and 204 to the Gaza Strip from places outside the occupied Palestinian territory. It should be noted that some of those may not have been displaced in 1967, but may have been displaced in earlier or later years or may be members of the family of a displaced registered refugee. Thus, taking into account the estimate given in paragraph 4 of the previous report (A/71/340), the number of displaced registered refugees who are known by the Agency to have returned to the occupied territory since June 1967 is 37,093. UNRWA is unable to estimate the total number of displaced inhabitants who have returned. It keeps records only of registered refugees and other registered persons[1] and, as noted above, even those records, in particular with regard to the location of registered refugees and other registered persons, may be incomplete.

5. In connection with paragraph 3 of resolution 71/92, the Secretary-General refers to the report of the Commissioner-General of UNRWA for the period from 1 January to 31 December 2016 (A/72/13) and to the previous reports of the Commissioner-General for accounts of the ongoing assistance provided by UNRWA to persons displaced and in need of continued assistance.

[1] "Other registered persons" refers to those who, at the time of original registration, did not satisfy all the Agency's criteria for "Palestine refugee", but who were determined to have suffered significant loss and/or hardship for reasons relating to the 1948 conflict in Palestine; it also includes persons who belong to the families of other registered persons.

United Nations A/72/314

General Assembly

Distr.: General
11 August 2017

Original: English

Seventy-second session
Item 54 of the provisional agenda*
Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

Report of the Secretary-General

Summary

The present report provides details of the efforts made to implement General Assembly resolution 71/96.

* A/72/150.

17-13856 (E) 220817

Please recycle

1. The present report is submitted pursuant to resolution 71/96, by which the General Assembly requested the Secretary-General to report at its seventy-second session on the implementation of the resolution.

2. On 15 May 2017, the Secretary-General addressed a note verbale to the Government of Israel in which he requested the Government to inform him of any steps that it had taken or envisaged taking concerning the implementation of the relevant provisions of the resolution.

3. No reply had been received at the time of the preparation of the present report.

4. By a note verbale dated 15 May 2017 sent to the permanent missions of the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, including the State of Palestine, the Secretary-General drew attention to paragrapn 3 of resolution 71/96, by which all High Contracting Parties had been called upon, in accordance with article 1 common to the four Geneva Conventions and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004, to continue to exert all efforts to ensure respect for the provisions of the Convention by Israel. The Secretary-General requested information regarding any steps that the High Contracting Parties had taken or envisaged taking concerning the implementation of the resolution.

5. One reply, from the Permanent Mission of Cuba, had been received at the time of the preparation of the present report.

6. On 16 June 2017, Cuba noted its full support for the resolution and reiterated its call for the prompt and immediate application of the resolution by all Member States.

7. Cuba noted that the Convention protected the civilian population in the occupied territories against abuses committed by the occupying Power and required the occupying Power not to discriminate against the civilian population, to protect civilians against all forms of violence and, to the extent possible, to ensure that civilians had access to a normal life in accordance with their laws, culture and traditions. Cuba, as a High Contracting Party, reaffirmed the full and absolute applicability of the Convention to the Occupied Palestinian Territory, including East Jerusalem and other Arab territories occupied by Israel since 1967. Cuba stated that Israel, the repeated calls by the international community notwithstanding, was refusing to accept the applicability of the Convention to the Occupied Palestinian Territory, including East Jerusalem.

8. Cuba noted the continued raids by the Israeli army into the Occupied Palestinian Territory, emphasizing that those raids perpetuated the violent and destructive nature of the occupation. Cuba highlighted the situation of thousands of Palestinian prisoners being held in Israeli jails who suffered from constant violations of their human rights, abuse, torture and humiliation, which also constituted violations of international humanitarian law.

9. Cuba stated that the impunity with which the occupying Power had acted for many years was due to, among other things, the inaction of the Security Council. Cuba argued that the Council had been marred by double standards and a lack of transparency, by one of its permanent members in particular, and called for those practices to cease.

10. Cuba reiterated its call upon the occupying Power to immediately cease all violations of international law, including international humanitarian law, and to fully abide by its legal obligations, including under the framework of the Convention. Cuba recalled that article 1 common to the four Geneva Conventions

provided that the High Contracting Parties had committed themselves to respecting and enforcing the Conventions in all circumstances.

11. Cuba condemned the prolonged and illegal occupation of the Palestinian territory and the continued military campaign against Palestinians, especially in the Gaza Strip. Cuba asserted that, through those military campaigns, the occupying Power had continued to perpetrate grave violations of human rights and war crimes, including the excessive and indiscriminate use of force, including against children, and had caused the vast destruction of properties, infrastructure and agricultural land.

12. Cuba called for the forced and arbitrary detention and imprisonment of thousands of Palestinian civilians, including hundreds of women and children, and the ill-treatment of prisoners in Israeli prisons to cease immediately. Furthermore, it demanded that the detainees and prisoners should be released.

13. Cuba reaffirmed its determination to continue to support the legitimate struggle of the Palestinian people for justice, dignity, peace and their inalienable right to self-determination and sovereignty in an independent State of Palestine with pre-1967 borders and East Jerusalem as its capital.

United Nations A/72/315

General Assembly

Distr.: General
11 August 2017
English:
Original: Arabic/English/French/
Russian/Spanish

Seventy-second session
Item 95 of the provisional agenda*

Developments in the field of information and telecommunications in the context of international security

Report of the Secretary-General

Contents

		Page
I.	Introduction	3
II.	Replies received from Governments	3
	Afghanistan	3
	Armenia	4
	Belarus	5
	Brunei Darussalam	7
	Canada	7
	Cuba	8
	Ecuador	10
	El Salvador	10
	Estonia	10
	Finland	11
	Germany	12
	Greece	13
	Japan	15
	Jordan	15
	Madagascar	18
	Netherlands	18
	Norway	19

* A/72/150.

17-13876 (E) 280817

Please recycle

Paraguay 20
Portugal 21
Qatar 22
Singapore 23
Turkey 24
United Kingdom of Great Britain and Northern Ireland 25

I. Introduction

1. On 5 December 2016, the General Assembly adopted resolution 71/28 on developments in the field of information and telecommunications in the context of international security. In paragraph 3 of the resolution, the Assembly invited all Member States, taking into account the assessments and recommendations contained in the report of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security (A/70/174), to continue to inform the Secretary-General of their views and assessments on the following questions:

(a) General appreciation of the issues of information security;

(b) Efforts taken at the national level to strengthen information security and promote international cooperation in this field;

(c) The content of the concepts mentioned in paragraph 2 of the resolution;

(d) Possible measures that could be taken by the international community to strengthen information security at the global level.

2. Pursuant to that request, on 16 February 2017 a note verbale was sent to all Member States inviting them to provide information on the subject, followed by a further note verbale dated 12 June 2017. The replies received at the time of reporting are contained in section II. Additional replies received after 31 July 2017 will be posted on the website of the Office for Disarmament Affairs (www.un.org/disarmament/) in the original language.

II. Replies received from Governments

Afghanistan

[Original: English]
[26 May 2017]

The Ministry of Communications and Information Technology of the Islamic Republic of Afghanistan has reported the following in reference to operative paragraph 3 of General Assembly resolution 71/28 on developments in the field of information and telecommunications in the context of international security.

Achievements

To promote the international security of information technology and the authenticity of electronic transactions, the Ministry of Communications and Information Technology has established a public key infrastructure device. The Ministry has also created the NOC system and intends to connect this system with the system of the Member States for identification and verification purposes of the ongoing statistics and data flow on the Internet.

The Ministry has drafted cybercrime laws and has sent them to the Ministry of Justice for consideration. For fundamental solutions, in light of these laws, more secure electronic deals can be made and cybercrime can be prevented.

The Ministry has created a national cyberstrategy to exchange secure information, establish an information technology security framework for the NIXA project that will be implemented by the Ministry, and address and identify cybercrime.

Proposals

The Ministry of Communications and Information Technology requests the developed countries that have cyberpolice to assist and cooperate with the Ministry in the establishment of the cyberpolice.

To address cybercrimes and to fight seriously against this phenomenon a coherent system (conducive for criminal information) should be established at the international level.

One of the important solutions for the security of the Internet is to establish Internet governance. Through Internet governance, a basis can be provided for the exchange of confidential information and data between all departments and offices of the Government for the implementation of the network mentioned above. In this regard, the Ministry requests the cooperation of all Member States.

The Ministry also requests Member States to support the staff of the Ministry to fight cybercrime and improve information security, by providing them with vocational and technical training programmes.

Armenia

[Original: English]
[31 May 2017]

General appreciation of the issues of information security

Given the pace of e-society development in the Republic of Armenia, issues related to information security are acquiring significant relevance, having a huge impact on all aspects of national security.

The trends in information and communications technology (ICT) pose qualitatively new threats and challenges requiring systematic coordination and new approaches to ensure the secure use of ICT. Taking into account the use of "information warfare" techniques in different conflict environments, Armenia attaches vast importance to ensuring information security for the maintenance of international peace and security.

Efforts made at the national level to strengthen information security and promote international cooperation in this field

Armenia has undertaken activities aimed at safeguarding State and public interests in the field of information security and harmonization of relevant legislation with international standards. A series of normative acts governing the sphere have entered into force, including the national security strategy and the information security concept, as well as laws on the fight against terrorism; State and official secrets; electronic documents and digital signatures; personal data protection; freedom of information; and the mass media.

Pursuant to the relevant decisions of the Government:

(a) A number of practical measures were taken to ensure the protection of publicly accessible information of government bodies on the Internet and provide a secure connection of their information systems to the Internet;

(b) Minimum requirements for official Internet websites of government bodies were adopted.

Armenia has approved and applied a set of ISO standards related to information security. In October 2006, the Council of Europe Convention on Cybercrime was ratified and appropriate amendments to the national legislation followed.

Armenia actively engages in relevant programmes, training courses and cooperative initiatives carried out within different international frameworks, such as the Commonwealth of Independent States, the Collective Security Treaty Organization, the European Union and the North Atlantic Treaty Organization. In particular, in 2016 the two-stage "Cyber-antiterror" joint exercise of member States of the Commonwealth of Independent States was held. A draft "Agreement on cooperation among CSTO member States in the field of ensuring information security" was proposed for domestic interdepartmental approval earlier in 2017.

The content of the concepts mentioned in paragraph 2

The Republic of Armenia information security concept defines the term "information security" as "the protection of national interests in the information sphere, which is linked to the entirety of the balanced interests of individuals, society and the State".

Taking into account the rapid development of information and communications technology, an inter-agency working group has been established to draft a renewed concept on ensuring information security and information policy in the Republic of Armenia in late 2017.

Possible measures that could be taken by the international community to strengthen information security at the global level

Armenia underlines the importance of enhanced and effective international cooperation on information security issues, emphasizing the role of the International Telecommunication Union.

Belarus

[Original: Russian]
[5 June 2017]

General appreciation of the issues of information security

The current state of international information security is unsatisfactory. There are attempts being made to use information technology for political purposes.

Belarus has a number of distinctive information security issues:

(a) Insufficient protection of the national segment from exposure to distributed denial-of-service (DDoS) at the level of backbone providers and domestic providers, and even hosting platforms;

(b) The potential for undeclared capabilities and vulnerabilities to appear in information security products and a lack of capacity for detecting them in a timely fashion, which often undermines the impact of measures to protect information;

(c) The threat of intruders attacking critical infrastructure and information technology infrastructure, such as power supply systems and automated systems for managing production and transport.

Efforts taken at the national level to strengthen information security and promote international cooperation in this field

Such efforts include:

(a) Work across the entire system to update requirements as regards technical and cryptographic protection of information, whose dissemination and/or provision is restricted;

(b) The organization and application of technical norms and standards pertaining to the technical and cryptographic protection of information;

(c) The implementation of information exchange agreements with leading information security companies;

(d) Regular cooperation with State bodies and organizations to facilitate prompt responses to specific information security incidents;

(e) Maintenance by countries themselves of their own malware-detection packages;

(f) Collaboration with countries of the Collective Security Treaty Organization through the consultative coordination centre.

Examination of international concepts aimed at strengthening the security of global information and telecommunications systems

A key approach of Belarus to international information security is related to the need to prevent the possible misuse of information and communications technology (ICT) so as to undermine national security and stability and international security.

Belarus actively takes part in discussions about international information security in forums of various international organizations, including the United Nations, the Collective Security Treaty Organization and the Organization for Security and Cooperation in Europe.

Belarus supports the initiative to adopt a universal instrument on international information security within the United Nations.

Possible measures that could be taken by the international community to strengthen information security at the global level

At the international level, it is crucial to gradually advance the principle of non-interference in the internal affairs of sovereign States and mutual rejection of aggressive actions in the information sphere. Such steps should principally be achieved through support of the information sovereignty of United Nations Member States for the purpose of:

(a) Upholding citizens' rights to receive, store and disseminate complete, reliable and timely information;

(b) Developing an information society in which United Nations Member States participate in global information relationships on an equal basis;

(c) Ensuring effective information management of an intergovernmental policy to prevent the proliferation of terrorist and extremist ideas;

(d) Ensuring the resilient operation of critical infrastructure.

Possible measures that could be taken by the international community to strengthen information security at the global level

(a) Develop mechanisms for international cooperation, as provided for in current and future instruments of international law;

(b) Build effective cooperation between the international community and multinational corporations that control the overwhelming majority of ICT, in order to identify and block the sources of threats to information security.

Brunei Darussalam

[Original: English]
[29 June 2017]

Brunei Darussalam recognizes that global trends have shifted with increasingly prominent developments in the field of information and telecommunications. At the same time, this has also introduced new threats and challenges in the form of hacking, cybercrimes and cyberterrorism, which endanger vital infrastructures, networks and services worldwide. Its transnational and intangible nature requires collaborative efforts from the global community to build a secure and trusted online environment.

On a national scale, under the auspices of the National Security Committee, the country maintains strong cooperative ties with a host of local security agencies to manage internal cybersecurity threats. The Brunei national computer emergency response team was established in May 2004 and became the nation's one-stop referral agency in dealing with computer- and Internet-related security incidents. Through a global affiliation with other computer emergency response teams, the national team acquires valuable information on security threats to information and communications technology (ICT) and shares findings on security risks detected within the nation's ICT infrastructure.

Brunei Darussalam is committed to working with regional and international partners to constantly maintain a state of readiness in the face of major international cyberthreats. Within the regional architecture of the Association of Southeast Asian Nations (ASEAN), Brunei Darussalam will participate in the ADMM-Plus Expert Working Group on Cyber Security, which brings 18 countries together to promote practical and effective cooperation and to enhance capacity in protecting the region's cyberspace and addressing challenges to cybersecurity.

Threats in all cyberlandscapes, including that of cloud computing and mobile systems, are recognized by the Government and represent a major part of the security and defence priorities of Brunei Darussalam.

Canada

[Original: English]
[17 July 2017]

On cyberissues, Canada believes that:

(a) A free, open and secure cyberspace is critical to promoting security, prosperity and human rights;

(b) Existing international law is applicable to the use of information and communications technology by States;

(c) Promoting peacetime norms helps sustain an environment in which responsible behaviour guides State actions;

(d) Practical confidence-building measures are a proven method to reduce the risk of armed conflict.

At the national level, the Government released its cybersecurity strategy in 2010, which focused on securing the cybersystems of Canada and protecting Canadians online. The Government recently finalized a review of existing cybersecurity measures. On this basis, the country's new approach to cybersecurity is set to be released in late 2017.

The 2017 defence policy includes new investments and policy direction to better leverage cybercapabilities in support of military operations. The Canadian Forces' active cybercapability will be subject to the same rigour as other military tools, including applicable domestic and international law and rules of engagement.

At the international level, Canada is active in a number of ways:

(a) It continues to promote the development of peacetime norms for State behaviour in cyberspace, including the outcomes of the 2012-2013 and 2014-2015 Groups of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security;

(b) It ratified the Council of Europe Convention on Cybercrime (Budapest Convention) in July 2015. Canada encourages countries to become parties to the Convention, or to use it as a model as they design their own cybercrime law;

(c) Since 2007, it has committed $11 million to support cybersecurity capacity-building projects;

(d) It is working with the United States of America to implement the Canada-United States cybersecurity action plan, which aims to enhance the resilience of its cyber infrastructure;

(e) It has been working on implementing confidence-building measures in various forums, including the Organization for Security and Cooperation in Europe and the Regional Forum of the Association of Southeast Asian Nations;

(f) It supports efforts of the North Atlantic Treaty Organization to strengthen the cyberdefence of the Organization and that of individual allies.

Cuba

[Original: Spanish]
[5 April 2017]

As stated in General Assembly resolution 71/28, scientific and technological developments can have both civilian and military applications, and these developments must be prevented from affecting international security.

Measures are needed to promote, at multilateral levels, the consideration of existing and potential threats in the field of information security, as well as possible strategies to prevent and address them.

Joint cooperation between all States is the only way to prevent cyberspace from turning into a theatre of military operations.

Cuba supports the work of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security, established pursuant to resolution 58/32, in which a Cuban expert participates.

We consider it necessary to establish a legally binding international regulatory framework which is complementary to existing international law but applies to information and communications technologies.

Information and telecommunications systems can be turned into weapons when they are designed or used to inflict damage on the infrastructure of a State. All States must respect existing international standards in this field. Access to the information or telecommunications systems of another State should be in line with the international cooperation agreements concluded and should be based on the principle of consent of the State concerned. The nature and scope of exchanges must respect the laws of the State which is granting access.

The hostile use of telecommunications with the overt or covert intention of undermining the legal and political system of States is a violation of internationally recognized norms in this field and constitutes an illegal and irresponsible use of those means. Such use can give rise to tensions and situations that are not conducive to international peace and security and can adversely affect the integrity of State infrastructure to the detriment of its security in both the civilian and military fields.

Cuba reiterates its concern at the covert and illegal use, by individuals, organizations and States, of the computer systems of other nations for the purpose of attacking third countries, because of its potential for triggering international conflicts.

Through illegal radio and television broadcasts, the United States has been constantly attacking Cuban airwaves, disseminating programming specifically designed to incite the overthrow of the constitutional order established by the Cuban people. In 2016, illegal broadcasts averaging 1,875 hours per week were transmitted against Cuba, using 25 frequencies, from United States territory. The constant radio and television broadcasts transmitted by the United States against Cuba contravene the purposes and principles of the Charter of the United Nations, international law and the regulations of the International Telecommunication Union.

Once again, Cuba calls for an immediate end to these aggressive policies which violate the sovereignty of Cuba and which are, furthermore, incompatible with the development of ties based on mutual respect and cooperation between States.

It also hopes that the economic, commercial and financial embargo, which has caused serious damage to the Cuban people, will be lifted. The embargo has had a harmful impact in the area of information and communications, among other aspects of the daily life of the Cuban people.

The Heads of State and Government of Latin America and the Caribbean, at the second Summit of the Community of Latin American and Caribbean States (CELAC), held in Havana in January 2014, proclaimed the Latin American and Caribbean region to be a zone of peace, in order to, among other objectives, foster cooperation and friendly relations among themselves and with other nations, irrespective of differences in their political, economic and social systems or in their levels of development, to practice tolerance and to live together in peace with one another as good neighbours.

At the fifth Summit of CELAC, held in Punta Cana, Dominican Republic, in January 2016, the importance of information and communications technologies, including the Internet, as tools to foster peace, human well-being, development, knowledge, social inclusion and economic growth was again highlighted.

Cuba reiterates that international cooperation is essential to tackle the dangers associated with the misuse of information and communications technologies. Cuba

also emphasizes that the International Telecommunication Union has an important role to play in the intergovernmental debate on cybersecurity issues.

Ecuador

[Original: Spanish]
[28 July 2017]

Ecuador considers that security in international relations must be based on trust and respect among States. The continuing revelations about massive and indiscriminate systems of espionage that are being used to monitor the communications of all citizens all over the world, as well as the use of information and communications technologies in a manner that violates international law, infringe the principles of respect for sovereignty and non-interference in the internal affairs of States. Moreover, those actions inject a serious element of instability into the relations between States and therefore affect international security. These systems of espionage also violate various fundamental human rights.

For that reason, Ecuador supports the efforts made to continue studying existing and potential threats in the field of information security and possible cooperative measures to address them, as well as the way in which international law should be applied to the use of information and communications technologies by States, and also the norms, rules and principles of responsible State behaviour in this area.

El Salvador

[Original: Spanish]
[24 May 2017]

In compliance with its obligations to the United Nations, El Salvador has the honour to report, in connection with General Assembly resolution 71/28 on developments in the field of information and telecommunications in the context of international security, that, in 2016, the El Salvador Armed Forces acquired a system for encrypting institutional documentation in order to strengthen information security. The system is in the process of being implemented.

Estonia

[Original: English]
[31 May 2017]

Estonia recognizes that security in the cyberworld has become a very important issue in the context of wider international security. The role and involvement of the United Nations is therefore becoming increasingly relevant.

Security on the Internet has been one of the high priorities of the Estonian Government. The main guiding document on this issue is the national cybersecurity strategy (2014-2017). The Cyber Security Council of the Security Committee of the Government supports strategic-level inter-agency cooperation and oversees the implementation of the objectives of the cybersecurity strategy. The Cooperative Cyber Defence Centre of Excellence of the North Atlantic Treaty Organization was established in Tallinn and as of May 30th 2017, it has 20 contributing Member States.

Estonia is convinced that the broad use of digital services demands a high level of cybersecurity. For Estonia, the socioeconomic and politico-military aspects

of cyber security are intertwined. Estonia considers it elementary that countries abstain from attacking national critical infrastructure. Estonia also call for responsible behaviour towards the global communications infrastructure to promote access to information and trust towards information and communications technology (ICT). It considers it a responsibility of every country to draft and enforce national laws that help control malicious uses of ICT by non-State actors and to seek ways to better formulate, disseminate and promote responsible and active cyberpolicies, narratives and argumentation.

Estonia is a member of the Group of Governmental Experts on Developments in the Field of Information and Telecommunication in the Context of International Security for the fourth consecutive time. The Group has served as a very productive forum. In the future, it could be a useful instrument with regard not only to studying cyberthreats and possible remedies but to understanding how different countries implement existing international law and norms, rules and principles. In the view of Estonia, the Group should continue its work on advancing dialogue among Member States, which facilitates the exchange of information and best practices. In addition, it should discuss practical cooperation measures and mechanisms to advance the capacity-building of Member States, with the ultimate goal of equipping Member States with the competence and capacity to tackle all aspects of Internet challenges.

It is important to advance the progress achieved at the 2014-2015 meetings of the Group of Governmental Experts by further promoting norms of State behaviour that support openness, accountability and other democratic values in cyberspace. Estonia hopes to see yet another consensus report from the Group in June 2017.

Finland

[Original: English]
[21 July 2017]

Finland welcomes the opportunity to report on the implementation of General Assembly resolution 71/28.

Efforts made at the national level include the following:

(a) The national cybersecurity strategy (2013) and its updated implementation programme (2017) define key guidelines and actions in strengthening cybersecurity and resilience;

(b) Finland has established a National Cyber Security Centre and a Cybercrime Prevention Centre and appointed an Ambassador for Cyber Affairs in the Ministry of Foreign Affairs. The national information security strategy was adopted in 2016;

(c) Finland actively contributes to cooperation on cyberspace within the European Union;

(d) Finland supports various forms of information and communications technology for development and cyber-related capacity-building projects. It is a founding partner of the Global Forum on Cyber Expertise. In 2016, it joined the World Bank Digital Development Partnership trust fund. Finland supports Internet governance based on the multi-stakeholder model. It has been actively engaged in the World Summit on the Information Society and its follow-up process, including participating in the work of the Internet Governance Forum and financing it. The eighth Finnish Internet Forum took place in Helsinki in April 2017;

(e) Finland actively engages in dialogue on cyberissues in multilateral and regional forums and bilaterally. Within the Organization for Security and

Cooperation in Europe (OSCE), it works towards strengthening trust, security and stability in cyberspace and implements the agreed cyber confidence-building measures;

(f) Finland has endorsed the 2015 report of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security and participates actively in the work of the present Group. It has participated actively in the discussions on international law in cyberspace, for example, consultations on Tallinn Manual 2.0 and workshops organized by the United Nations Institute for Disarmament Research;

(g) Finland joined the Freedom Online Coalition in 2012 and contributes to the Digital Defenders Partnership. It organized the 2016 World Press Freedom Day conference, which was held in Helsinki;

(h) Finland is a party to the Council of Europe Convention on Cybercrime. A new strategic police plan (2015) targets resources at computerized crime prevention and the development pf cybersecurity know-how. There is also a comprehensive cybercrime prevention plan.

Priority areas for further work by the international community include:

(a) The work of the present Group of Governmental Experts, to which Finland attaches a lot of importance and to the success of which it is prepared to contribute, including further identification of norms of responsible State behaviour in cyberspace, with a special emphasis on peacetime activities;

(b) Further developing and implementing regional confidence-building measures within OSCE;

(c) Continuing support to cyber capacity-building to strengthen resilience and security in cyberspace;

(d) The multi-stakeholder dialogue, which Finland will continue to support and encourage, and the strengthening of public-private partnerships nationally and internationally.

Germany

[Original: English]
[30 May 2017]

The evolution of information and communication technology (ICT) offers numerous economic, social and scientific opportunities. Ensuring access to cyberspace and maintaining the integrity, authenticity and confidentiality of data in cyberspace have become vital issues of the twenty-first century.

In an increasingly interconnected world, States, critical infrastructures, businesses and individuals depend on the reliable functioning of ICT. The consequences of a misuse of ICT may not be limited to cyberspace. They can cause social, economic, political and other damage. For instance, attacks targeting State institutions or democratic and political processes can affect public order and safety.

Germany is addressing these challenges by promoting international law-abiding, norm-adhering and confidence-building State use of ICT at three levels:

(a) Globally, Germany is supporting efforts at agreeing how international law applies to State use of ICT and at developing voluntary non-binding norms, rules or principles of responsible State behaviour that aim at an open, secure, stable, accessible and peaceful ICT environment. Of particular importance in this context is the work of successive Groups of Governmental Experts on Developments in the

Field of Information and Telecommunications in the Context of International Security. German experts have actively participated in those Groups and Germany is committed to promoting their recommendations. Now is the time to widen the debate and involve the wider United Nations membership, with a view to universalizing the work on ICT in the context of international security. Germany supports a lead role for the United Nations and a strengthening of United Nations capacities in this field. Issues to be explored further include international information-sharing and cooperation on attributing cyberattacks. Clear and universally respected rules should address the malicious use of cybercapabilities as well as online espionage for economic purposes;

(b) At the regional level, confidence-building measures help to address the risk that ICT incidents may escalate into political or even military crises. At the Organization for Security and Cooperation in Europe (OSCE), Germany has for years been active in defining and implementing confidence-building measures aimed at security in and of State use of ICT. During the German chairmanship-in-office of OSCE in 2016, participating States agreed additional such measures. The 2016 OSCE Ministerial Council in Hamburg approved them and gave directions not only for their implementation, but also for further work to be undertaken. That needs to expand beyond politico-military aspects to multiple dimensions of security. Outside OSCE, Germany also supports similar efforts in regional organizations on other continents;

(c) Bilaterally, Germany maintains cyberdialogues and conducts regular cyberconsultations with multiple partners. Building on established partnership relations, Germany also supports the cybersecurity capacity-building efforts of other nations. When updating its cybersecurity strategy in November 2016, the German Government decided to work towards establishing a German institute for international cybersecurity, with a view to systematizing and increasing those efforts.

The efforts of Germany concerning information and telecommunications in the context of international security are part of intense work to promote ICT security overall. Recent national regulatory measures, such as the 2015 Information Technology Security Act and the 2016 overhaul of the national cybersecurity strategy are aimed at improving overall ICT security in Germany.

Greece

[Original: English]
[26 May 2017]

Within the framework of the Council of Europe, Greece has ratified by virtue of Law 4411/2016 (Government Gazette A΄ 142, 3 August 2016) the Council of Europe Convention on Cybercrime (Budapest, 23.11.2001) and the Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems (Strasbourg, 28 January 2003).

It should be noted that a process for integrating the European Union directive on security of network and information systems into national law is already in place. This directive is of paramount importance for enhancing resilience in the face of cyberattacks at the national level and sets a number of obligations for all European Union member States that are pertinent to this end and also includes the adoption of a national strategy on the security of network and information systems.

According to information provided by the Hellenic Ministry of Defence, the cybersecurity vision of Greece is to develop the full range of capabilities to defend

its national infrastructure and networks against the latest cyberthreats and cybercriminals. This includes addressing cyberdefence at the highest strategic level within the country's defence-related organizations, further integrating cyberdefence into operations and extending coverage to deployable networks. The following efforts have been undertaken at the national level to strengthen information security and promote international cooperation:

(a) A national cyberdefence strategy framework is currently under development, while the national cybersecurity strategy that regulates the general cybersecurity framework and defines the necessary actions for maintenance of the minimum requirements of cybersecurity is becoming a law;

(b) Cyberdefence is already part of the national defence operation plans, while the national emergency alert system has been incorporated into most policy documents referring to information systems and has been integrated into all major national exercises. Cybersecurity has been included in the operation plans for crisis periods in all public organizations;

(c) Greece has developed and continuously improves incident/emergency response capabilities under the Military Computer Incident Response Centre. Rapid reaction teams can deploy at short notice to help respond to and recover from cyberincidents in the military or public networks. Recovering instructions from faults or cyberattacks, have been integrated into computer information security policy documents;

(d) A cybersecurity operation centre for all national military defence network systems is under construction, while at national level there are four computer emergency response teams responsible for the public and private sectors.

Measures that could be taken by the international community, in order to achieve a higher level of information security are as follows:

(a) Increased incident response capabilities, network monitoring capabilities and actionable defence against cyberthreats through fully operational national cybersecurity operation centres;

(b) Full integration of cyberdefence into operations;

(c) Development of national cybersecurity/cyberdefence strategies;

(d) Enhanced cyberawareness of the personnel employed in cyberdefence and improvement of existing technical capabilities;

(e) Continuous training of the personnel employed in cyberdefence organizations;

(f) Harmonization of the national laws with the global cybersecurity laws and directives.

According to information provided by the Hellenic Police, the mission of the Cybercrime Division of the Hellenic Police, according to article 30 of presidential decree 178/2014, includes the prevention, investigation and prosecution of crimes committed through the Internet or other electronic communications media. The Cybercrime Division is an autonomous central service and is directly assigned to the chief of the Hellenic Police headquarters.

One of the units of the Division is responsible for the security of electronic and telephone communications and software and copyright protection. More specifically, the unit investigates cases of illegal penetration of computer systems and the theft, destruction or trafficking of software, digital data and audiovisual works throughout the country.

The Cybercrime Division of the Hellenic Police works in close cooperation with the National Authority against Electronic Attacks, which is part of the National Intelligence Service. The mission of the National Authority is to attend to the prevention of and to passively and actively counter electronic attacks against communication networks, data storage facilities and information and communications technology systems. In addition, the Authority is responsible for processing data and notifying the competent authorities.

Japan

[Original: English]
[27 July 2017]

Japan believes that cyberspace should be a space where freedom is assured without unnecessary restrictions and where all actors who wish to access it are neither denied nor excluded without legitimate reason. Japan's efforts comply with the following five principles: free flow of information, rule of law, openness, self-governance and a multi-stakeholder approach.

Based on the cybersecurity strategy established in September 2015, Japan makes efforts to strengthen information security.

Japanese efforts consist of the following three pillars: promoting the rule of law in cyberspace, confidence-building measures and capacity-building.

With regard to the promotion of the rule of law, Japan proactively contributes to international discussion to promote common understanding that the existing international law is applicable in cyberspace, as well as development of voluntary, non-binding norms. They are the basis for ensuring the stability and predictability of the international community. Given the unique characteristics of information and communications technology, further clarification is needed on how individual rules and principles would be applied.

In advancing confidence-building measures, securing transparency and information-sharing is necessary; however, the level of measures taken varies from State to State, as each State has the authority to determine the level at their disposal. Japan is engaged in the promotion of confidence-building through bilateral dialogue and multilateral frameworks such as the Regional Forum of the Association of Southeast Asian Nations. Study of the ways to lead tangible cooperation is necessary.

With regard to capacity-building, Japan has been promoting the development of laws, statutes and policy frameworks for cybersecurity, and has been engaging in the assurance of cybersecurity of governmental bodies, CII operators; measures against cybercrime; human resources development to foster cybersecurity experts; and research and development of cybersecurity technologies. Based on these experiences and accumulated knowledge, Japan will further proactively cooperate on capacity-building.

Jordan

[Original: Arabic]
[23 March 2017]

Information and communications technology has become essential to our daily lives. It promotes the social, cultural and economic growth and development of local communities in various ways, and has numerous implications for the interaction of individuals with their local communities and with the wider world.

The extremely rapid progress of information and communications technology makes it vulnerable to risks and challenges. Those risks must be addressed through both technological and legal means with a view to finding effective and practical solutions that reduce risks and avert potentially catastrophic consequences.

The Jordanian Army has played an active and influential role in promoting security and peace at the national, regional and global levels through the development of technology that it employs to secure information and both wired and wireless communication, including the following:

(a) It has updated its communications and information systems by installing protected networks that use encrypted IP technology all over the country, including at the borders. It uses those networks to strengthen national and regional security;

(b) It engages in security cooperation with the international community using communications systems that are compatible with those used by the North Atlantic Treaty Organization and the United States Army, and that meet type 1 international encryption standards;

(c) It has improved its technical capacities by acquiring an infrastructure-independent communications system for use in maintaining national security in conflict zones, refugee camps and remote areas. The Jordanian Army — the Arab Army — also uses that technology in support of peacekeeping operations in conflict zones around the world;

(d) It trains and certifies all communications systems users and maintenance and support personnel without relying on the supplier company, in order to ensure optimum reliability and dependability at all times;

(e) The highest command-and-control standards are applied to all systems used by the military in order to improve national and regional security coordination and cooperation;

(f) It takes active part in international conferences and keeps abreast of their outcomes in order to increase complementarity between friendly armies, avoid interference between communications systems used by neighbouring States in the region, and ensure coordinated control and surveillance at international borders.

There should be a constant focus on citizen awareness of pervasive cyberthreats and how cybersecurity measures can minimize and counteract such threats to the use of electronic systems. When any kind of information is handled, it is essential to heighten security awareness, provided that such action does not prevent the technology from being put to good use.

The following measures have been taken to protect vital national information networks:

(a) Encryption is used for all voice, data and video communications systems;

(b) Closed networks (intranets) are used;

(c) Links with other security agencies are established through stand-alone peripheral devices;

(d) Information and communications security measures and the "need to know" principle are applied. Access permissions and user identities are checked continually;

(e) Virtual networks are used whereby the user interacts with a screen linked to the network on the basis of access permissions for access to information. Access or connection many not be done via other devices, such as flash drives;

(f) Jordan has enacted the following cybersecurity legislation:

1. A law on cybercrimes has been enacted;

2. A law on electronic transactions has been enacted;

3. A national cybersecurity and protection strategy has been drafted;

4. National cybersecurity and protection policies have been drafted;

5. A national cybersecurity and protection strategy was approved by the Cabinet in 2012.

We propose the following global measures:

(a) Communications networks and information should be classified by importance;

(b) Cybersecurity and protection measures should be implemented;

(c) The need-to-know principle should be applied;

(d) Technical measures such as encryption and frequency-hopping should be employed;

(e) Users and network access permissions should be verified and categorized;

(f) Networks should be linked by stand-alone peripheral devices;

(g) Within certain networks, closed intranets should be used, and the World Wide Web should be avoided where possible;

(h) The United Nations intranet should be enhanced and kept separate from public networks. It should be protected through technical and security measures such as encryption, safeguards and verification of access permissions;

(i) Cooperation should be promoted among computer emergency response teams to follow-up breaches, install safeguards and address gaps;

(j) Security measures and procedures for addressing breaches should be circulated.

We should like to stress that information and communications technology has the potential to advance sustainable development, especially in poorer and more remote areas, in the following ways:

(a) It can accelerate poverty eradication, for example, through mobile banking, which has brought direct and tangible benefits to millions of people around the world who have no banking experience;

(b) Modern technology and new communications media can mitigate the impact of famines by providing crucial information to farmers about which crops to cultivate.

Recommendations:

(a) International response and recovery teams should be formed to address cybersecurity incidents, crises and disasters;

(b) A Jordanian representative should be included in the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security formed in 2003.

(c) Scientific and research cooperation and training exchanges among the members of the Security Council should be increased.

Madagascar

[Original: French]
[20 June 2017]

The recommendations of the United Nations are based on international security and envisage:

- Studies aimed at strengthening the security of global information and telecommunications systems;
- Evaluation of all existing and potential threats in the field of information security and the adoption of appropriate strategies to address this scourge;
- The engagement of State officials to strengthen information security, with a view to building a common understanding of security at the global level;

Resolution 71/28 specifically addresses information and telecommunications, which is a rapidly expanding field in Madagascar. Our response to this resolution requires input from experts in this field.

Netherlands

[Original: English]
[31 May 2017]

The Netherlands warmly welcomes the opportunity to offer its response to General Assembly resolution 71/28.

Cyberspace and especially the Internet are a critical resource for economic and societal growth. The increased importance of cyberspace has presented the global community with new challenges. Societies are highly interconnected and dependent on the Internet and information and communications technology and have become more vulnerable to the misuse of these technologies. Geopolitical tensions manifest themselves in cyberspace and States and other actors are increasingly using cyberoperations to pursue their strategic interests. However, those cyberoperations have the potential to cause instability in international relations and could present risks for international peace and security.

The need for international cooperation to reduce these risks is clear. In the light of the above, the Netherlands is stepping up its engagement in cyberdiplomacy to maintain peace and stability in cyberspace, promote the international legal order and foster a culture of collaborative security as stated in its international cyberstrategy, "Building digital bridges".

The international community is taking steps to address these risks. The reports produced by the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security are of great importance in this regard. The Netherlands is also grateful for being in a position to contribute to the 2017 Group of Governmental Experts.

The Netherlands continues to promote an inclusive dialogue on responsible State behaviour in cyberspace, defends human rights online and fosters capacity building through various activities. Various efforts have been undertaken by the Netherlands, of which most notably:

(a) In the best tradition of support for the development of the international legal order, the Netherlands organized consultations between State legal advisers on the Tallinn Manual 2.0 on the International Law Applicable to Cyberoperations;

(b) The Netherlands supported the United Nations Institute for Disarmament Research in the organization of a series of three workshops on cybernorms, international law and countering the spread of malicious tools and techniques, successfully bringing together diplomats and the technical community;

(c) Last, the Netherlands launched numerous initiatives to foster guiding norms, including the Global Commission on the Stability of Cyberspace, which will develop proposals for norms and policies to enhance international security and stability.

All these efforts aim to make digitized international relations and cyberspace itself more stable and secure. The Netherlands believes that this is essential in order to reduce the risks of conflict and to maintain an open, free and secure cyberspace.

Norway

[Original: English]
[27 July 2017]

Norway is among the world's most digitalized countries and is increasingly dependent upon a well-functioning and secure cyberspace. It is firmly committed to a free, open, peaceful and secure cyberspace, so that its economic and social benefits are protected and available for all. Cyberspace knows no national boundaries and security in cyberspace can only be ensured on an international scale with close cooperation between States and the private sector.

Efforts taken to strengthen information security

National approaches

The Government has issued a white paper entitled "ICT security: a joint responsibility" (2016-2017) which includes plans for a national framework for improved coordination between the relevant actors at the national level and the establishment of a technical platform for improved sharing of information between public and private entities.

On 31 March 2017, the Combined Cyber Coordination Centre for the security and intelligence services was established.

International approaches

The Government has issued a white paper on global security challenges in its foreign policy (2014-2015), in which cyberthreats play a substantial part.

Norway is about to launch an international strategy for cyberspace for the country.

Norway takes part in several regional cooperation initiatives relevant to cyberissues, such as:

(a) Work within Organization for Security and Cooperation in Europe (OSCE) related to the development of norms and confidence-building measures to reduce the risk of conflict stemming from the use of information and communications technology (ICT);

(b) Close cooperation with the Cooperative Cyber Defence Centre of Excellence of the North Atlantic Treaty Organization in Tallinn, including the application of international law in the cyber domain and doctrine development;

(c) The Council of Europe Convention on Cybercrime.

Norway is supportive of the work of the Groups of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security.

Norway takes part in bilateral and regional dialogues on cyberissues, especially within the framework of the Nordic States.

Possible measures that could be taken by the international community to strengthen information security at the global level

Norway considers international law to be applicable in cyberspace and that State adherence to international law, in particular to obligations under the Charter of the United Nations, is an essential framework for their actions in their use of ICT. The international community needs to explore further the application of international law in the cyberdomain, as well as norms of responsible behaviour in cyberspace.

A sustainable global Internet depends on the right balance between openness, security, robustness and liberty. This can only be ensured through international cooperation and dialogue, globally and regionally. The ongoing work on this in forums such as the United Nations, the European Union, the Organization for Economic Cooperation and Development and OSCE should be continued.

Universal human rights also apply in the cyberdomain. The same rights that individuals have offline must also be protected online, in particular freedom of expression, including the freedom to seek, receive and impart information and the right to privacy.

Paraguay

[Original: Spanish]
[31 July 2017]

Paraguay agrees that information security is an area of growing importance at the global level as Governments increasingly rely on information and communications technologies and cyberspace. The response to the rise in cyberattacks must be concerted, robust and proportionate. Without a strategic response at the global level, a country's efforts in the area of cybersecurity will be unsustainable, sporadic, duplicative and inefficient.

To strengthen information security at the national level, in April 2017, the Government of Paraguay approved a national cybersecurity plan, which was prepared with the direct involvement of representatives of all sectors that have a role and interests in cyberspace. The plan serves as the basis for Government and national policies in this field and establishes the actions to be taken by Paraguay to strengthen the security of its critical assets and to achieve a secure, reliable and resilient cyberspace. Cybercrime is defined under Paraguayan criminal legislation. For the last five years, Paraguay has hosted the Ibero-American Information Security Conference and Fair, a forum to share experiences, learn about developments and assess solutions to the challenges generated by the growth in the use of information and communications technologies.

At the subregional level, the Southern Common Market (MERCOSUR) has a permanent body, the MERCOSUR Meeting of Authorities on Information Security and Privacy and Technological Infrastructure, which proposes common policies and initiatives relating to cybersecurity. Moreover, the Americas region has a comprehensive inter-American cybersecurity strategy, which recognizes the need for all participants in information systems and networks to be aware of their roles

and responsibilities with regard to security, in order to create a culture of cybersecurity.

The establishment of an effective framework for the protection of information networks and systems on a global scale, including the Internet, and for incident response and recovery is dependent on the international community taking the following measures:

- Provide information to users to enable them to protect their information systems against threats and vulnerabilities
- Foster public and private partnerships to promote education and awareness-raising
- Identify and assess technical standards and best practices to ensure the security of the information transmitted by communications networks and promote their adoption
- Promote the adoption of policies and legislation on cybercrime to protect users and to prevent and discourage the inappropriate and illicit use of computer equipment, while respecting the privacy rights of users.

Portugal

[Original: English]
[27 July 2017]

In General Assembly resolution 71/28 on developments in the field of information and telecommunications in the context of international security, the Assembly recalled the importance of science and technology in this context, recognizing that developments in those areas can have civil and military applications. Progress in the fields of information and telecommunications means increasing opportunities for the development of knowledge, cooperation among States, the promotion of human creativity and the circulation of information in the community as a whole; on the other hand Portugal finds that those technologies and means can potentially be used in ways contrary to international stability and security, and may negatively affect the national integrity of States.

In resolution 71/28 Member States were requested to provide information in four areas:

(a) General appreciation of the issues of information security;

(b) Efforts taken at the national level to strengthen information security and promote international cooperation in this field;

(c) The content of the concepts aimed at strengthening the security of global information and telecommunications systems;

(d) Possible measures that could be taken by the international community to strengthen information security at the global level.

In its 2013 report (A/68/98), the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security presents some recommendations regarding the following areas: norms, rules and principles of responsible behaviour by States; confidence-building measures and the exchange of information; and capacity-building measures.

Following those recommendations, Portugal presents the following comments.

Norms, rules and principles that characterize the responsible behaviour of States

Portugal considers that security in network information is important and has been growing.

It is important to highlight progress in the efforts to implement legislation on network security and integrity by adopting risk assessment methods, which demand the adoption of adequate cooperative security measures at technical and organizational levels and include the requirement of reporting security violations or loss of integrity that have a significant impact on the functioning of services.

At the level of concepts, it is important to reinforce the idea that regulation should stem primarily from international rules.

At the international level, it is important to reinforce information-sharing and the realization of field training exercises in border areas.

Measures of confidence reinforcement and information-sharing

It is crucial to promote information-sharing between all stakeholders (both public and private), taking into account the wider context of globalization.

At the national level, Portugal's efforts have been focused on the accomplishment of joint exercises in which public and private entities took part; in the promotion of technical standardization; and in the organization of conferences and seminars, some of them with the participation of international speakers.

Measures of capacity-building

It is important to develop capacity-building measures. Nevertheless, there are difficulties related to the training and maintenance of human resources connected to these activities.

There is a need to facilitate access to knowledge and to promote collective training regarding several aspects, including security, between all the major stakeholders.

Qatar

[Original: English]
[4 May 2017]

The State of Qatar recognized some time ago that information security or cybersecurity is not just a technology issue but also a matter of national policy. To this end, the Qatar computer emergency response team (see www.Qcert.org) was formed in 2005 to catalyse change, and more specifically to accelerate the widespread adoption of effective cybersecurity practices and policies, and now has a national mandate to safeguard the digital assets of the State of Qatar.

In 2013, the Prime Minister formed a national Cybersecurity Committee. The committee has developed a national cybersecurity strategy in order to improve the security posture of Qatar and ensure the continued success and growth of the nation through five pillars that determine where action will be taken:

- Safeguard the national critical information infrastructure
- Respond to, resolve and recover from cyberincidents and attacks through timely information sharing, collaboration and action
- Establish a legal and regulatory framework to enable a safe and vibrant cyberspace

- Foster a culture of cybersecurity that promotes safe and appropriate use of cyberspace
- Develop and cultivate national cybersecurity capabilities.

The computer emergency response team has been successfully delivering different information security services to meet the needs of the country's constituents, businesses and organizations, especially in the areas of incident response, intelligence, resiliency, training and awareness, crisis management, key public infrastructure licensing and identity, and the creation of the national information security compliance framework.

Qatar believes there is currently a gap in the ability of States to gain and share sufficient cyber situational awareness at regional and international levels to enable effective decision-making. More work is needed on collaborative prevention to ensure stronger cybersecurity across cyberinfrastructure and services to ensure resilience, especially in regard to the normal operation of daily life for Governments, services, businesses, consumers and citizens.

Cybersecurity has never been more efficient than when information exchange is taking place. Working on information-sharing agreements would be a great asset for States through collaboration frameworks that describe verification and compliance methodologies.

Attacks will happen and nations, Governments, organizations and industry must be prepared, together.

Singapore

[Original: English]
[31 July 2017]

As a small and highly connected State, Singapore supports a secure and resilient cyberspace underpinned by international law, well-defined norms of responsible State behaviour and coordinated capacity-building efforts to meet these norms. Robust international cooperation is necessary to address the emerging challenges posed by cyberthreats and Singapore will play its part.

Singapore established its Cyber Security Agency in 2015 to provide centralized oversight of national cybersecurity functions. Singapore's cybersecurity strategy was launched in October 2016 and outlines its holistic approach to protecting essential services from cyberthreats and creating a secure cyberspace. Four pillars underpin the strategy: building a resilient infrastructure; creating a safer cyberspace; developing a vibrant cybersecurity ecosystem; and strengthening international partnerships.

At the regional level, Singapore is working to build and deepen capacities among its neighbours. It has launched a S$10 million cybercapacity programme in association with Association of Southeast Asian Nations (ASEAN) to complement regional capacity-building efforts. Under this programme, Singapore held an ASEAN cybernorms workshop in May 2017 and will hold an ASEAN cybersecurity capacity-building workshop in August 2017. It also hosts the annual Singapore International Cyber Week, which comprises the ASEAN Ministerial Conference on Cybersecurity and the International Cyber Leaders' Symposium for global leaders across government, industry and academia to engage the region and discuss emerging and cross-cutting issues.

In terms of multilateral cooperation, Singapore supports the work of the Group of Governmental Experts on Developments in the Field of Information and

Telecommunications in the Context of International Security, including the 11 norms set out in its 2015 report. It is important to define and implement those norms that enjoy broad agreement, especially operational norms. They include not supporting online activity that intentionally damages critical infrastructure; not supporting activity that prevents computer security incident response teams from responding to cyberincidents; and not using those response teams to engage in malicious international activity.

Turkey

[Original: English]
[31 July 2017]

Information and communication technologies (ICTs) have become essential parts of today's society and economic life. They contribute to social wealth and development as well as to the daily life of individuals. They are used in a broad spectrum that includes the public and private sectors, critical infrastructure sectors and individuals, and have become widespread in the country and the world despite cybersecurity risks.

In this context, Turkey has taken part in many initiatives by contributing cooperation efforts on cybersecurity issues. The goal is ensuring cybersecurity. In this context, through the coordination of the Ministry of Transport, Maritime Affairs and Communications, national cybersecurity exercises were held; the first International Cyber Shield Exercise was completed in Istanbul, while Turkey has also regularly and annually participated in and contributed to international exercises related to cybersecurity, namely the Cyber Coalition of the North Atlantic Treaty Organization (NATO), NATO Locked Shields and the NATO Crisis Management Exercise.

Dialogue and cooperation with the United Nations, NATO, the European Union, the Organization for Security and Cooperation in Europe and other international and non-governmental organizations, academia and opinion leaders has been enhanced. This approach is being strengthened by conferences, courses, seminars, meetings, graduate-level education and other supportive programmes. Turkey is leading regional cybersecurity efforts by concluding bilateral agreements with various States.

The memorandum of understanding that describes the cooperation between NATO and its allies was approved by the NATO Cyber Defence Committee and related work for signature is ongoing. Turkey is a sponsoring nation of the NATO Cooperative Cyber Defence Centre of Excellence. The work of the NATO Civil Emergency Planning Committee and meetings of the Regional Arms Control Verification and Implementation Assistance Centre — Centre for Security Cooperation are followed and cooperation on various issues has been developing. Turkey is a founder of the Global Forum on Cyber Expertise and has become a party to the framework document and the Hague Declaration on the Global Forum.

A decision on cybersecurity, emphasizing the work of the Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security, was taken at the Group of 20 Summit held in Turkey on 15 and 16 November 2015.

The Council of Europe Convention on Cybercrime was signed by Turkey in Strasbourg in 2010 and approved through Law No. 6533 in 2014 and its adaptation to national legislation was finalized subsequently.

As the result of the collection, review and assessment of information generated within the scope of meetings and common-sense platforms, a national cybersecurity strategy and action plan for the period 2016-2019 was prepared.

Strengthening information security at the global level and thereby developing a security culture within the international community is a crucial matter for everyone. At the same time every State has the right to take measures to protect itself from the malicious use of ICTs by terrorists, extremists, organized criminal groups and freelance hackers for the preservation of national security. In that context, strengthening international legislation and enhancing bilateral international agreements is also of great importance.

United Kingdom of Great Britain and Northern Ireland

[Original: English]
[31 July 2017]

The United Kingdom welcomes the opportunity to respond to General Assembly resolution 71/28 on developments in the field of information and telecommunications in the context of international security, which builds upon its response to resolution 70/237 in 2016. The United Kingdom uses its preferred terminology of "cybersecurity" and related concepts throughout its response, to avoid confusion, given the different interpretations of the term "information security" in this context.

The United Kingdom recognizes cyberspace as a fundamental element of securing critical national and international infrastructure and an essential foundation for economic and social activity online. Actual and potential threats posed by activities in cyberspace continue to be of great concern. The new national cybersecurity strategy, published in October 2016, will shape the country's efforts over the next five years to defend its assets, deter its adversaries and develop its cybersecurity sector.

The United Kingdom continues to take a leading role in the international debate on cybersecurity. It provided experts at all five Groups of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security. Despite the lack of consensus in the 2017 group, the country is committed to promoting an international stability framework for cyberspace based on the application of existing international law, agreed voluntary norms of responsible State behaviour and confidence-building measures, supported by coordinated capacity-building programmes. The United Kingdom also welcomes efforts of the Organization for Security and Cooperation in Europe and other regional forums to provide proposals for implementing confidence-building measures and will look to continue to lead by example in adopting such measures.

This response outlines the work of the United Kingdom on supporting and improving cybersecurity and sharing best practice domestically and worldwide, including with international partners to tackle cybercrime, major incidents and building capacity. The United Kingdom looks forward to seeing further progress and is pleased to be actively engaged on these issues. It will continue to participate fully in strengthening capability and international cooperation on cybersecurity.

United Nations A/72/316

General Assembly

Distr.: General
11 August 2017

Original: English

Seventy-second session
Item 73 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protecting human rights and fundamental freedoms while countering terrorism

Report of the Secretary-General

Summary

The General Assembly, in its resolution 70/148, reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and urged States, while countering terrorism, to fully comply with their obligations under international law. The present report is submitted pursuant to paragraph 27 of that resolution.

* A/72/150.

17-13872 (E) 210817

Please recycle

I. Introduction

1. The present report was prepared pursuant to General Assembly resolution 70/148, adopted on 17 December 2015. In that resolution, the General Assembly reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular human rights, refugee and humanitarian law. It welcomed the work of the United Nations High Commissioner for Human Rights to implement the mandate granted in 2005 by the Assembly in its resolution 60/158 and requested the High Commissioner to continue efforts in that regard. In addition, it took note with appreciation of the report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism (A/70/271).

2. Also in resolution 70/148, the General Assembly expressed serious concern at the occurrence of violations of human rights and fundamental freedoms, as well as of international refugee and humanitarian law, committed in the context of countering terrorism and urged States to take a number of specific measures in order to comply fully with international law. In paragraph 27, it requested the Secretary-General to submit a report on the implementation of the resolution to the Human Rights Council and to the General Assembly at its seventy-second session. The present report covers the period since the last report of the Secretary-General (A/70/271) and includes relevant developments that took place between 1 July 2015 and 30 June 2017, with reference in particular to observations by bodies and mandate holders within the United Nations human rights system, which includes the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Human Rights Council, special procedures mandate holders and human rights treaty bodies. Ongoing concerns are highlighted in relation to the undermining of respect for human rights in the context of countering terrorism, as reflected in resolution 70/148, and a number of recommendations are made on specific measures to be taken by Member States.

II. Human rights as a tool for prevention

3. Events during the reporting period have highlighted the serious challenges faced by States in preventing acts of terrorism and safeguarding the security of individuals within their jurisdiction. The scale and complexity of terrorism has evolved, as shown by the growth in the reach of terrorists and terrorist organizations and the changes in their modus operandi.[1] Civilians continue to suffer the dire consequences of armed conflict between States and non-State armed groups designated as terrorist, with a wide-reaching negative impact on the human rights of victims, their families and communities.[2] The burden on State authorities to prevent extremist violence and acts of terrorism and hold those responsible to account is significant, and the need for effective international and cross-border cooperation is greater than ever.[3]

4. Preventing violent extremism and countering terrorism is deeply rooted in the renewed focus of the United Nations on prevention[4] and on sustaining peace. In his address to the Human Rights Council in February 2017, the Secretary-General said

[1] See the fifth report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat (S/2017/467).

[2] See A/HRC/34/30.

[3] See A/HRC/34/61.

[4] See www.un.org/sg/en/priorities/prevention.shtml.

that the best prevention tool is the Universal Declaration of Human Rights and the international treaties that derive from it. The rights set out in the Universal Declaration provide a framework for real-world solutions through real change on the ground.[5] The United Nations human rights system was developed in response to catastrophic violent conflict and was designed to address the very factors that drive violence, conflict and insecurity. Human rights thus possess inherent preventive power and, combined in a framework of universal, indivisible, interdependent and interrelated rights, they can be considered a powerful tool for conflict prevention. International and regional human rights mechanisms, which complement and support national processes for the prevention of human rights violations, can serve as both early warning mechanisms and important tools for accountability.

5. A focus on the prevention of human rights violations can also contribute directly to preventing violent extremism and countering terrorism by avoiding individual experiences of human rights violations, such as torture and other ill-treatment, or violations of due process rights, which have been identified as playing a role in an individual's path to radicalization.[6] As recognized in the Plan of Action to Prevent Violent Extremism, the creation of open, equitable, inclusive and pluralist societies, based on respect for human rights and with economic opportunities for all, represents the most tangible and meaningful alternative to the recruitment strategies of violent extremists, and the most promising strategy for rendering their efforts unattractive.[7] Research has also shown that societies that respect women's rights are less prone to violent extremism.[8]

6. At the same time, ensuring that measures to prevent violent extremism and counter terrorism are grounded in respect for human rights and the rule of law, through investment in institutions and processes that are accountable, effective and legitimate, can help to prevent new human rights violations. Legislation, policies and programmes must therefore be designed and implemented in a manner that complies with human rights standards to avoid the vicious circle in which the measures taken risk exacerbating the very phenomenon they are aimed at preventing.[9]

7. The international community has demonstrated its resolve to act together to address the rapidly evolving phenomenon of terrorism through a global, comprehensive approach by implementing the four pillars of the United Nations Global Counter-Terrorism Strategy (see General Assembly resolutions 60/288 and 70/291). The experience gained since the adoption of the Strategy in 2006 has reaffirmed the importance of the promotion and protection of human rights to effective counter-terrorism measures. Since 2003, the Security Council has adopted resolutions, in which it has consistently emphasized the need for States to promote and protect human rights while countering terrorism, and the General Assembly has committed explicitly and repeatedly, most recently through the review and reaffirmation of the Strategy in 2016, to ensure that respect for human rights and the rule of law remains the fundamental basis for the fight against terrorism.

[5] See www.un.org/sg/en/content/sg/speeches/2017-02-27/secretary-generals-human-rights-council-remarks.

[6] See A/70/674, para. 33; A/HRC/31/65, para. 32; and Human Rights Council resolution 30/15.

[7] A/70/674, para. 7; and A/HRC/33/29, para. 14.

[8] See global study on the implementation of Security Council resolution 1325 (2000), p. 222, available from http://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf.

[9] A/HRC/33/29, para. 2.

III. Recent developments

8. Since he assumed office in January 2017, the Secretary-General has given priority to ensuring that the United Nations is best positioned to support Member States in their implementation of the Strategy in a balanced manner across its four pillars, on the basis of respect for human rights and the rule of law. In this context, the Secretary-General proposed the establishment of a dedicated Office of Counter-Terrorism with five core responsibilities, including enhancing coordination and coherence across the 38 entities of the Counter-Terrorism Implementation Task Force. In its resolution 71/291, adopted on 15 June 2017, the General Assembly supported that proposal, establishing the Office of Counter-Terrorism in accordance with the competencies and functions set out in the report concerning the capability of the United Nations system to assist Member States in implementing the Strategy (A/71/858), emphasizing the importance of implementing the Strategy in an integrated and balanced manner.

9. The establishment of the Office of Counter-Terrorism presents an opportunity for the United Nations to step up the support it provides to Member States to ensure that respect for human rights for all and the rule of law is the fundamental basis for preventing violent extremism and countering terrorism. Through its coordination role and in close cooperation with member entities of the Counter-Terrorism Implementation Task Force, notably OHCHR, the Office of Counter-Terrorism will enhance the assistance provided by the United Nations to Member States to ensure that relevant legislation, policies and practices are grounded firmly in respect for human rights. The Office of Counter-Terrorism will also increase efforts to mainstream human rights across the work of the working groups of the Task Force and seek to further strengthen existing engagement and develop, where necessary, new partnerships with OHCHR as well as relevant mandate holders of the Human Rights Council and human rights treaty bodies, and to encourage follow-up to the recommendations of these mandate holders and bodies. The United Nations stands ready to assist Member States further in their efforts to ensure that all measures aimed at preventing and countering violent extremism fully respect human rights.

10. The increasing priority afforded to countering terrorism at the United Nations, including through support to operations that involve the use of force, also highlights the need for a more systematic application of the human rights due diligence policy in order to identify the risks involved in providing such support, as well as to offer practical solutions for mitigating the risks. The monitoring element of the policy could also provide a tool to assist in evaluating the impact of prevention efforts in these contexts.

11. Those efforts will capitalize on the work of the United Nations human rights system, including OHCHR and its field offices, the Human Rights Council, special procedures mandate holders and human rights treaty bodies. They will also build on the work of the United Nations Counter-Terrorism Centre, now the capacity-building arm of the Office of Counter-Terrorism, as well as the Counter-Terrorism Implementation Task Force, the United Nations Office on Drugs and Crime (UNODC), the Counter-Terrorism Committee Executive Directorate and other member entities. The Task Force Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism, for example, has moved forward with delivery of its global human rights capacity-building project for law enforcement, to support the integration of human rights in the counter-terrorism initiatives of security and law enforcement officials, as well as through their cross-border and regional cooperation. Training sessions and engagement with senior government officials have taken place in Jordan, Iraq, Mali, Nigeria and Tunisia, with further plans to support States in the Sahel. UNODC is also working

with criminal justice authorities and police and judiciary training institutions in numerous States, particularly in Africa and the Middle East, to assist them in strengthening respect for human rights in the investigation and prosecution of terrorism cases, including through the training of national trainers and the development of tailor-made national training materials. Furthermore, UNODC and OHCHR are implementing a joint capacity-building initiative for officials and civil society representatives in countries in the Lake Chad Basin region, including the development of guidance materials and the delivery of training on mainstreaming a gender perspective and women's rights in the investigation and prosecution of offences by terrorist groups, as well as in the support provided to victims.

12. The Counter-Terrorism Committee and its Executive Directorate have continued to address relevant issues relating to human rights and the rule of law in their assessment of Member States' efforts to implement Security Council resolutions 1373 (2001), 1624 (2005) and 2178 (2014) and in their recommendations for technical assistance. Human rights issues are addressed in thematic reports prepared by the Committee and the Executive Directorate[10] and in the global surveys on the implementation by Member States of Security Council resolutions 1373 (2001) and 1624 (2005),[11] and are taken into account in the Committee's special meetings, such as the special meeting on stemming the flow of foreign terrorist fighters, held in Madrid on 28 July 2015.[12] Senior United Nations human rights officials and special rapporteurs have also participated in the Committee's meetings, such as the meeting on preventing the exploitation of information and communications technologies for terrorist purposes while respecting human rights and fundamental freedoms, which was held on 1 December 2016.

IV. Human rights considerations

13. The Global Counter-Terrorism Strategy, as reaffirmed and updated by the General Assembly in its resolution 70/291, provides the blueprint for a comprehensive, strategic and long-term response to terrorism that is grounded in respect for human rights and the rule of law. The United Nations has addressed the wide-ranging implications for human rights of security-related policies and practices, representing an invaluable resource for risk analysis, early warning and technical cooperation, and can provide practical guidance for States and other duty-bearers in the implementation of the Strategy.

14. In the period covered by the present report, the Security Council, the Human Rights Council, the High Commissioner for Human Rights and the Secretary-General have condemned acts of terrorism that have been committed in countries worldwide, underscoring the devastating consequences for victims and the negative effects of such acts of violence on the enjoyment of human rights.[13] The United Nations human rights system has also addressed serious violations and abuses of international humanitarian law and international human rights law in situations where terrorist groups have been active and provided recommendations on measures to ensure accountability and counter impunity.[14] These and other challenges in the counter-terrorism context where legislation, policies and practices have undermined the protections afforded under international human rights law have been highlighted notably by the General Assembly, the Human Rights Council and the High

[10] See, for example, S/2015/683; and S/2015/975.
[11] See S/2016/49; and S/2016/50.
[12] See S/2015/939.
[13] See, for example, A/HRC/34/30; and Human Rights Council resolution 35/34.
[14] See, for example, A/HRC/34/64; A/HRC/33/55; A/HRC/32/CRP.2; and A/HRC/31/CRP.3.

Commissioner for Human Rights.[15] In its resolution 70/291 on the review of the Global Counter-Terrorism Strategy, the General Assembly expressed serious concern at the occurrence of violations of human rights and fundamental freedoms committed in the context of countering terrorism and stressed that, when counter-terrorism efforts neglected the rule of law and violated international law, they not only betrayed the values they sought to uphold, but they might also further fuel violent extremism that could be conducive to terrorism.

15. The following sections address the human rights issues reflected in resolution 70/148, with reference to the analysis and recommendations made by various mandate holders within the United Nations human rights system during the reporting period. These issues include the need for measures to ensure accountability and combat impunity in the context of countering terrorism; respect for the rights of victims; conformity of national legislation with international law, including human rights law; compliance of surveillance measures with international law; due process, including the right to a fair trial; and standards relating to detention, including the prohibition of torture.

A. Ensuring accountability and combating impunity

16. The duty to ensure compliance with, and prevent violations of, international human rights law applies to counter-terrorism policies, legislation and practices, subject only to lawful derogation from, or limitation to, specific rights as provided for under international human rights law. In this regard, in paragraph 8 of its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the Human Rights Committee stated that the positive obligations on State Parties to ensure the rights enshrined in the International Covenant on Civil and Political Rights will be fully discharged only if individuals are protected by the State, not just against violations of those rights by State agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights insofar as they are amenable to application between private persons or entities. The Human Rights Committee is in the process of drafting a new general comment on article 6 of the International Covenant on Civil and Political Rights. According to the draft, States parties are under a due diligence obligation to take reasonable positive measures, which do not impose on them impossible or disproportionate burdens, in response to foreseeable threats to life originating from private persons or entities whose conduct is not attributable to the State. States are therefore obliged to take adequate preventive measures in order to protect individuals against being murdered or killed by criminals or organized crime or militia groups, including armed or terrorist groups.

17. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has noted that individuals suspected of having engaged in the incitement, preparation, instigation or commission of acts of terrorism should be duly investigated and, if appropriate, prosecuted, and has stated that all acts of terrorism should be categorized as ordinary crimes and dealt with within the legal and institutional framework of ordinary criminal law.[16] The guarantees of due process should be respected when persons who are alleged to have committed terrorism-related offences are arrested, charged, detained and prosecuted. Such guarantees are essential to ensuring that

[15] General Assembly resolution 70/148; A/HRC/34/30; and Human Rights Council resolution 35/34.
[16] A/HRC/20/14, paras. 24, 34 and 67 (b).

those responsible are held to account, that justice is done and that victims have access to an effective remedy.[17]

18. States must also ensure accountability for any gross or serious violations of international human rights law and international humanitarian law, including those that take place in the context of countering terrorism. The lack of accountability for serious violations of international human rights law in the counter-terrorism context has been highlighted with concern by United Nations human rights bodies and mandate holders.[18] In particular, States should ensure that action is taken so that violations and abuses are prevented and/or not repeated, to promptly, thoroughly, independently and impartially investigate allegations of such violations and abuses, to punish perpetrators and to ensure access to remedy and redress for victims.

19. The Special Rapporteur on extrajudicial, summary or arbitrary executions has noted that the framing of conflicts as anti-terrorism operations has, in some cases, contributed to confusion among stakeholders about what domestic and international legislation applies and who within the government is responsible for the use of force, which can, in turn, create uncertainty with regard to accountability and how it should be achieved.[19]

20. In situations of armed conflict, members of non-State armed groups are also obliged to respect applicable rules of international humanitarian law. Serious violations of international humanitarian law may amount to war crimes, engaging the individual criminal responsibility of those responsible. In its resolution 2349 (2017), which was adopted unanimously, the Security Council strongly condemned all terrorist attacks, violations of international humanitarian law and abuses of human rights by Boko Haram and Islamic State in Iraq and the Levant (ISIL/Da'esh) in the Lake Chad Basin region and called for those responsible to be held to account and brought to justice. At the request of the Human Rights Council, OHCHR has documented in detail and reported on gross human rights abuses and serious violations of international humanitarian law committed by Boko Haram, as well as violations of international human rights law and international humanitarian law allegedly committed by government security forces during counter-insurgency operations, with a view to ensuring accountability.[20] A joint visit of special procedures mandate holders was undertaken to Nigeria in January 2016 in order to examine measures taken by the Government and other actors to rehabilitate and reintegrate the women and children who escaped or were liberated from captivity at the hands of Boko Haram. In their joint report, the Special Rapporteurs identified serious abuses of the human rights of women and children and violations of international humanitarian law and outlined recommendations to the Government and other actors, including measures to address the significant gap in accountability for crimes perpetrated in the context of the insurgency.[21]

21. Deliberate and calculated abuses, violations and crimes committed by ISIL have been documented extensively by the Independent International Commission of Inquiry on the Syrian Arab Republic and by the United Nations Assistance Mission for Iraq and OHCHR, which have noted when violations and abuses may amount to

[17] Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism, "Basic human rights reference guide: right to a fair trial and due process in the context of countering terrorism".

[18] See, for example, A/HRC/34/61; and A/HRC/28/28.

[19] A/HRC/32/39/Add.1, para. 24. See also A/HRC/28/38, and global study on the implementation of Security Council resolution 1325 (2000), chap. 9, available from http://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf.

[20] See A/HRC/30/67.

[21] See A/HRC/32/32/Add.2.

war crimes, crimes against humanity and acts of genocide.[22] In a report produced in 2016 on crimes committed by ISIL against the Yazidis, the Commission of Inquiry found that the conduct of ISIL constituted serious abuses of international human rights law, including the prohibition against slavery, and that the sexual and physical violence, together with the severe mental trauma, that Yazidi women and girls had experienced at the hands of ISIL had risen to the level of torture, causing them serious physical and psychological harm.[23] On 21 December 2016, the General Assembly adopted resolution 71/248, in which it decided to establish the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011.

B. Ensuring respect for the human rights of victims

22. Member States have highlighted the importance of ensuring respect for the human rights of victims of terrorism to reparation, truth and justice, as well as their right to live free from fear and be provided with the support they require. The General Assembly, in its resolution 70/291, expressed its profound solidarity with victims and their families and encouraged Member States to provide them with proper support and assistance; and, the Human Rights Council, in its resolution 35/34, underscored that protecting the rights of victims of terrorism required providing them with proper support and assistance, while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, justice and truth, in accordance with international law.

23. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) outlines the minimum standards for the fair treatment of victims according to the basic principles of justice. Victims should be treated with compassion and respect for their dignity; be informed of their rights in seeking redress; have their views and concerns presented in legal proceedings; receive proper assistance throughout the legal process; be protected against intimidation and retaliation; have their privacy protected; be offered the opportunity to participate in informal mechanisms for the resolution of disputes, including mediation; enjoy restitution and compensation, as appropriate; and receive the necessary material, medical, psychological and social assistance. Those elements are crucial to ensuring respect for their dignity, whether the abuse to which they have been subjected is at the hands of a State or non-State actor.

24. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex) also underscore that victims should be treated with humanity and respect for their dignity and human rights, and emphasize that appropriate measures should be taken to protect their safety, physical and psychological well-being and privacy, as well as those of their families.

25. States should consider sharing lessons learned and good practices in this regard, including with respect to national legislation, compensation, rehabilitation and assistance schemes and studies in order to better protect and promote the human rights of victims. In February 2016, the United Nations Counter-Terrorism Centre,

[22] See A/HRC/34/CRP.3; A/HRC/34/64; A/HRC/32/CRP.2; and www.ohchr.org/Documents/Countries/IQ/UNAMIReport12Aug2016_en.pdf.

[23] A/HRC/32/CRP.2, para. 130; see also global study on the implementation of Security Council resolution 1325 (2000), chap. 9, available from http://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf.

under the auspices of the Task Force Working Group on Supporting and Highlighting Victims of Terrorism,[24] organized a high-level conference to examine how States could strengthen their national legislation, procedures and practices to better respect the human rights of victims of terrorism, drawing upon the framework principles for securing the human rights of victims of terrorism, developed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.[25] The Task Force Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism has highlighted the need for States to establish national systems of assistance to promote the needs of victims of terrorism and their families, stressing that victims of terrorism who have suffered violations of their rights are entitled to material, legal and psychological assistance.[26]

C. Impact of national legislation

26. The General Assembly has underlined the importance of ensuring that national legislation criminalizing acts of terrorism is accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including international human rights law (resolution 70/148, para. 6 (o)). Defining acts of terrorism in domestic criminal legislation in line with the principle of legality is recognized as one critical step towards prevention and towards ensuring that those responsible are brought to justice. Ensuring that counter-terrorism legislation and policy comply with international legal standards helps to promote the prosecution and conviction of individuals engaged in acts of terrorism. When States take steps to ensure that national counter-terrorism legislation is specific, necessary, effective and proportionate, this facilitates international cooperation and ultimately leads to more successful criminal justice outcomes. It also helps to prevent the abusive enforcement of the law and ensure accountability of the State authorities that are responsible for law enforcement.[27]

27. In a climate of growing insecurity, many States have either maintained legislation or enacted new laws that provide for an overly broad definition of terrorism that is susceptible to wide interpretation, increasing the risk of abuse by law enforcement and other officials.[28] Criminal legislation that does not define the nature and consequences of the acts concerned, or that includes broad and imprecise definitions of terrorist incidents or terrorist acts, would contravene international law, in particular the principle of legality as reflected in the International Covenant on Civil and Political Rights.[29] In addition, some legislative processes have not given adequate consideration to or provided enough time for public engagement, allowing for accelerated adoption without taking into account the views of civil society.[30] Concerns have also been raised in relation to the invocation and/or

[24] The Working Group works to promote victims' rights and provide support services and access to critical information, for example, through the United Nations Victims of Terrorism Support Portal.

[25] See A/HRC/20/14. See also UNODC, "Good practices in supporting victims of terrorism within the criminal justice framework".

[26] Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism, "Basic human rights reference guide: conformity of national counter-terrorism legislation with international human rights law".

[27] See A/HRC/28/28. See also Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism, "Basic human rights reference guide: conformity of national counter-terrorism legislation with international human rights law".

[28] "Brazil anti-terrorism law too broad, UN experts warn", 4 November 2015, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16709.

[29] See, for example, CCPR/C/POL/CO/7; and CAT/C/CHN/CO/5.

[30] A/71/373, paras. 14 and 15.

repeated renewal of states of emergency in the context of countering terrorism, as well as legislation enacted in this context.[31]

28. In paragraph 46 of its general comment No. 34 (2011) on the freedoms of opinion and expression, the Human Rights Committee specifies that offences such as the "encouragement of terrorism" and "extremist activity" or "praising", "glorifying" or "justifying" terrorism should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression. In this regard, concerns have been raised over broadly formulated legislation that criminalizes "obscene, gory or offensive material which is likely to cause fear and alarm to the general public" or the "glorification of terrorism".[32] In a similar vein, concerns have been raised over national criminal legislation that incorporates broadly conceived concepts of "extremism", "violent extremism", "breach of national dignity", "inciting social or class hatred", "religious hatred or enmity", "politically motivated action which is designed to influence a government or international organization" and threats to the "economic or financial stability" of the State.[33] Concern has been expressed with regard to the broad application of counter-terrorism legislation with respect to children and to women who do not conform to traditional gender roles or who fail to report the activities of their husbands suspected of terrorism.[34]

29. Challenges have been identified in cases when counter-terrorism legislation has been used to justify the repression of peaceful protest and assembly; target, detain and arrest journalists, lawyers, human rights defenders, minorities and indigenous peoples; and restrict the activities of civil society.[35] Vague definitions in national legislation of the term "terrorist", including the charge of "harming relations with a foreign country" and the existence of restrictive provisions on the freedom of the media have had a serious impact on the work of journalists, many of whom have reportedly been subject to arbitrary detention in the absence of procedural guarantees.[36] The misuse of national security and counter-terrorism legislation to protect business interests, to the detriment of civil society groups exercising their rights to peaceful assembly and association, has also been raised with concern in relation to the actions of authorities in some States.[37] The High Commissioner for Human Rights has expressed alarm over the impact of counter-terrorism measures on freedom of expression and association, which threaten to wipe out dissent completely and close what is left of democratic space in some countries.[38]

30. Contrary to the international trend towards the progressive abolition of the death penalty, many Governments have retained or expanded the death penalty for

[31] See, for example, A/HRC/34/52/Add.1; A/HRC/30/42; and CCPR/C/UZB/CO/4.

[32] See A/71/373; and A/HRC/35/41.

[33] See, for example, CCPR/C/KAZ/CO/2, paras. 13-14; A/71/373, para. 23; A/HRC/31/65, para. 27; A/HRC/32/36, para. 34; CCPR/C/GBR/CO/7; and A/HRC/33/29, paras. 16-24.

[34] A/HRC/34/30, para. 24; and CCPR/C/IRQ/CO/5, para. 9.

[35] See, for example, A/HRC/34/52/Add.1; A/HRC/31/55; A/HRC/31/55/Add.1; A/70/217; A/HRC/32/36; and A/HRC/32/36/Add.3. See also "Saudi Arabia must reform counter-terror law and free peaceful critics, says UN rights expert", 5 May 2017, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21585&LangID=E; and "Rights defenders 'must not be silenced', says UN office, urging Turkey to release activists", 7 July 2017, available from www.un.org/apps/news/story.asp?NewsID=57134#.WWjBGYSGPct.

[36] A/71/373, para. 36; and CAT/C/CHN/CO/5.

[37] See A/70/266.

[38] See "Is international human rights law under threat?" Grotius Lecture at the Law Society, London, 26 June 2017, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21803&LangID=E; and "UN expert raises alarm at global trend of restricting civil society space on pretext of national security and counter-terrorism", 26 October 2015, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16653&LangID=E.

terrorism-related offences or resumed executions for terrorism-related offences after years of moratoriums on executions. The mandatory application of the death penalty for a wide range of activities defined in legislation as terrorist acts has also been raised as an issue of concern.[39] United Nations human rights mechanisms have underlined that the application of the death penalty for overly broad and vaguely defined terrorist offences remains a source of serious concern, particularly when such acts do not meet the threshold of "most serious crimes", and could result in the violation of article 6 of the International Covenant on Civil and Political Rights.[40] The Special Rapporteur on extrajudicial, summary or arbitrary executions has emphasized that many anti-terrorism laws discriminate against religious minorities in practice and that in some cases this has resulted in executions. United Nations human rights mechanisms have underlined that executions carried out without adherence to the strictest guarantees of due process are unlawful and tantamount to arbitrary execution.[41]

31. The General Assembly has repeatedly reaffirmed that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group and has urged States to ensure that counter-terrorism measures are not discriminatory and do not resort to profiling based on stereotypes (resolutions 68/178, 70/148 and 71/291). The disproportionate and discriminatory impact of counter-terrorism legislation on ethnic and religious minorities in many countries has been highlighted, including the serious consequences in cases of arbitrary arrest, detention and prosecution.[42] The ambiguity of terms such as "terrorism" and "extremism" has reportedly created a wide scope of interpretation and has led to increased profiling of people on the basis of their ethnicity and/or religion.[43] The negative portrayal and stereotyping in many States, including by the media and political leaders, of ethnic or religious minority communities, immigrants, asylum seekers and refugees, particularly in the aftermath of terrorist attacks, has reportedly fuelled divisions and encouraged prejudice and discrimination against vulnerable individuals and communities.[44]

32. The creation of a statutory "prevent duty", which requires public authorities in a broad range of fields to have due regard for the need to prevent individuals from being drawn into terrorism, has reportedly created an atmosphere of suspicion particularly towards members of Muslim communities. It has also had a negative impact on the rights to freedom of expression, religion and education where there is uncertainty as to what may legitimately be discussed or worn in educational settings.[45] For instance, the Special Rapporteur on the rights to freedom of peaceful assembly and of association noted that some families, with the spectre of "Big Brother" in mind, were afraid of even discussing the negative effects of terrorism in

[39] CCPR/C/IRQ/CO/5, para. 9.

[40] A/71/332, para. 33; and A/HRC/33/20, para. 16. See also "Egypt must halt executions of six men sentenced after unfair trials — UN experts", 22 June 2017, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21791&LangID=E.

[41] See "'The death penalty should not be used as a deterrent for terrorism' — UN rights experts warn", 7 October 2016, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20659&; and statement by the Special Rapporteur on extrajudicial, summary or arbitrary executions at the launch of the parliamentary fact sheet on the death penalty and terrorism-related offences, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20800&LangID=E.

[42] See, for example, CERD/C/UKA/CO/10-17; CERD/C/TUR/CO/4-6; and CCPR/C/UZB/CO/4.

[43] See, for example, CERD/C/GBR/CO/21-23; CERD/C/TUR/CO/4-6; and CERD/C/FRA/CO/20-21.

[44] See, for example, A/HRC/34/50/Add.1; A/HRC/34/53; A/HRC/34/53/Add.2; A/HRC/34/53/Add.3; A/HRC/35/41; A/HRC/35/41/Add.1; and CERD/C/GBR/CO/21-23. See also "States urged by UN experts to act now against racial profiling and incitement to racial hatred", 21 March 2017, available from www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=21416&LangID=E.

[45] See, for example, CERD/C/GBR/CO/21-23; CRC/C/GBR/CO/5; and A/HRC/35/28/Add.1.

their own homes, fearing that their children would talk about it at school and have their intentions misconstrued.[46]

33. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has underlined that a comprehensive migration policy that respects human rights, justice, accountability, human dignity, equality and non-discrimination and that grants victims of terrorism the protection to which they are entitled is also an essential part of an effective counter-terrorism policy.[47] Concerns have been raised, however, in relation to the enactment of measures designed to restrict or deny the entry of asylum seekers, as well as of restrictive immigration legislation and policies, often presented as a counter-terrorism measure.[48] The Special Rapporteur has highlighted that asylum and migration policies that are restrictive or that violate human rights can have a counterproductive effect on the efforts of States to counter terrorism by creating more irregular migration and increasing violations of the human rights of migrants and refugees, marginalizing particular communities and reducing prospects for migrants, all of which could become conditions conducive to terrorism.[49] Moreover, measures to ensure the safety and protection of those in need, including those fleeing terror, can help to safeguard the security of transit and host countries and communities.[50]

D. Surveillance

34. In the counter-terrorism context, surveillance of electronic communications data can be a necessary and effective measure for legitimate law enforcement or intelligence purposes. There are concerns, however, about the overreach of digital communications surveillance programmes implemented by Governments and their potential human rights impact, including arbitrary or unlawful interference in the right to privacy.[51] Concerns have been expressed over invasive and transnational surveillance practices, as well as the collection and storage of personal data arising from digital communication, which have been facilitated through the use of new technologies. The enactment and implementation of digital surveillance legislation, which imposes excessive and disproportionate restrictions on the legitimate exercise of the rights to freedom of expression, peaceful assembly and association and the right to privacy, in particular, and which lacks in clarity and precision, has also been underlined with concern.[52]

35. Digital surveillance has been used unlawfully by some States to target political opponents and to monitor, collect and access bulk information on specific individuals and communities.[53] Such practices, whether they involve the bulk

[46] A/HRC/35/28/Add.1, para. 13.

[47] A/71/384, paras. 54 and 55.

[48] See A/HRC/32/50; and A/HRC/33/51.

[49] A/71/384, para. 53.

[50] Office of the United Nations High Commissioner for Refugees (UNHCR), open briefing to the Counter-Terrorism Committee, 5 April 2017, available from www.unhcr.org/admin/dipstatements/58e35b317/open-briefing-united-nations-security-council-counter-terrorism-committee.html.

[51] See, for example, Human Rights Council resolution 34/7; General Assembly resolution 71/199; A/71/373; A/HRC/34/61; A/HRC/31/64; CCPR/C/ITA/CO/6; CCPR/C/CAN/CO/6; CCPR/C/POL/CO/7; CCPR/C/FRA/CO/5; CCPR/C/GBR/CO/7; A/HRC/31/14; A/HRC/31/12; A/HRC/30/12; and A/HRC/29/15.

[52] See A/70/361; A/HRC/31/64; A/HRC/34/61; A/HRC/29/32; and A/HRC/32/38. See also "UN rights experts urge France to protect fundamental freedoms while countering terrorism", Geneva, 19 January 2016, available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16966&LangID=E#sthash.NSGkSF7m.dpuf.

[53] See A/71/373; and A/HRC/27/37.

collection of data or the targeting of individual communications, may infringe not only the right to privacy but also the right to freedom of opinion and expression and other human rights. Following his mission to Mexico from 16 to 24 January 2017, the Special Rapporteur on the situation of human rights defenders expressed concern over the new and sophisticated techniques of intimidation being used to discourage or impede human rights work.[54] Journalists and defenders working on freedom of expression, impunity and corruption have reported cases of digital surveillance and attacks related to cybercrime, including malicious software and denial of service attacks. Measures that allow for the unlimited and indiscriminate surveillance of communication and collection of metadata, as well as the targeting of foreign nationals and application of different legal criteria to them, have also been identified as infringing human rights.[55]

36. The Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism has highlighted that further progress is required to ensure that adequate procedural safeguards and oversight of interception and surveillance are in place and that prior judicial authorization of surveillance should be the norm.[56] While the sharing of information between law enforcement and intelligence agencies in different jurisdictions is an essential tool for prevention, there are additional risks to human rights that must be addressed, including issues related to the collection and processing of digital evidence. In this regard, accountability gaps can be addressed through checks and balances, for example, through the extension of external oversight, in order to ensure that cooperation between law enforcement, investigative officials and intelligence services does not result in a weakening of human rights protection.

E. Due process, including the right to a fair trial

37. Bringing those suspected of terrorist acts to justice poses significant challenges in many countries. Not only are there security risks involved in the prosecution of terrorist cases, but also there are challenges associated with the collection and use of evidence in accordance with international standards. Nevertheless, systems that have developed processes for evidence collection, witness protection and similar measures that are respectful of human rights have been better able to successfully bring perpetrators to justice. In this regard, the General Assembly, in its resolution 70/148, and the Human Rights Council, in its resolution 35/34, have urged States to take a range of specific measures to ensure the fulfilment of due process guarantees as enshrined in international law. These include recognition of the right of an individual to know why he or she has been detained; the right of the family of a detainee to know where he or she is being held; and the right of a detainee to have access to a lawyer and to challenge the lawfulness of his or her detention.[57] In many jurisdictions, however, respect for those rights is neither fully acknowledged nor respected in practice.[58]

[54] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21111&LangID=E#sthash.u3KkdMu5.dpuf; and Human Rights Council resolution 33/2.

[55] A/HRC/34/61, para. 33; and CCPR/C/POL/CO/7, para. 39.

[56] A/HRC/34/61. See also CCPR/C/GBR/CO/7, para. 24 (c); and CCPR/C/CAN/CO/6, para. 10.

[57] Working Group on Promoting and Protecting Human Rights and the Rule of Law while Countering Terrorism, "Basic human rights reference guide: right to a fair trial and due process in the context of countering terrorism".

[58] A/HRC/34/30, paras. 29-31. See also CERD/C/TUR/CO/4-6; CCPR/C/FRA/CO/5; CCPR/C/MAR/CO/6; CCPR/C/UZB/CO/4; CAT/C/JOR/CO/3; CCPR/C/SUR/CO/3; CCPR/C/GBR/CO/7; CAT/C/CHN/CO/5; and CCPR/C/IRQ/CO/5.

38. The principle of the right to be presumed innocent until proved guilty according to law, and to be treated accordingly, a fundamental tenet of criminal law as recognized in the International Covenant on Civil and Political Rights, places the burden of proof on the prosecution to establish the guilt of the defendant beyond reasonable doubt. This principle has been challenged in many States where broad counter-terrorism legislation has been applied to individuals accused, in many cases on spurious grounds, of terrorist activity.[59]

39. Practices that limit the right of access to legal counsel for persons accused of terrorist activity have been addressed with concern by United Nations human rights treaty bodies. Such practices include provisions that allow a prosecutor or court to order the extended, incommunicado detention of an individual without legal representation in cases of terrorism or drug trafficking; permit the blanket denial of bail to persons arrested under counter-terrorism provisions; delay access to legal counsel for the accused; require a lawyer to obtain permission from public security investigators to meet with the suspect in cases of "endangering State security", "terrorism" or serious "bribery" and allow permission to be withheld indefinitely if the investigators believe the meeting could hinder their investigation or result in disclosure of State secrets; and allow investigators to refuse to notify family members of an individual's detention.[60] The Working Group on Enforced or Involuntary Disappearances has reported that the number of enforced disappearances is rising globally, as a result of high-handed security measures in places where the State is under the false and pernicious belief that they are a useful tool to preserve national security and combat terrorism or organized crime.[61]

40. The principle of equality of arms, which is critical to ensure respect for the right to a fair trial in the counter-terrorism context, has also been challenged, for example, when national security is invoked as a rationale to prevent disclosure of information or when intelligence information is introduced as evidence.[62] Legislation introducing a no-fly list programme without a clear procedure to inform the persons concerned of their status, as well as for judicial review that may be conducted in secret, also challenges the right of affected individuals to due process.[63]

41. Faced with the serious threat posed by terrorist groups, including ISIL, States have taken a wide range of administrative and legislative measures, under the scope of Security Council resolution 2178 (2014), to deter individuals who are or who seek to become foreign fighters, such as blocking the validity of travel documents, revoking citizenship, freezing financial assets and prosecuting individuals for acts ranging from recruitment and incitement to the planning of terrorist acts.[64] However, such measures may have a negative impact on the right to due process, including the right to presumption of innocence; the right to freedom of movement and to be protected against arbitrary deprivation of nationality; the rights to freedom of religion, belief, opinion, expression and association; and the right to protection against arbitrary or unlawful interference in privacy.[65] Situations in which decisions are taken following secretive proceedings, in absentia, on the basis of vaguely defined criteria or without adequate procedural safeguards to guarantee

[59] See, for example, CERD/C/TUR/CO/4-6; CCPR/C/MAR/CO/6; CCPR/C/UZB/CO/4; and CAT/C/JOR/CO/3.

[60] See, for example, CCPR/C/SUR/CO/3; CCPR/C/GBR/CO/7; CAT/C/CHN/CO/5; and CCPR/C/FRA/CO/5.

[61] A/HRC/33/51, para. 110; and A/HRC/30/38, para. 97.

[62] See A/HRC/34/61.

[63] CCPR/C/CAN/CO/6, para. 10.

[64] See A/HRC/28/28.

[65] See A/71/384; A/70/330; A/HRC/33/43/Add.1, 2, 3 and 4.

non-arbitrariness are particularly disconcerting.[66] The detention of suspected foreign fighters without respect for the safeguards that are due under international law to all persons deprived of their liberty, in particular the extension of the length of permissible pre-charge detention without judicial supervision or review of the reasons of detention, has also been raised as an issue of concern.[67] The introduction of temporary exclusion orders and the use of citizenship deprivation orders in the context of terrorism, as well as the possibility of individuals being rendered stateless as a result of such measures, have also been raised as matters of concern.[68]

F. Detention and the prohibition of torture

42. In its general comment No. 35 (2014) on liberty and security of person, the Human Rights Committee highlighted the absolute nature of the prohibition of arbitrary detention, as reflected in article 9 of the International Covenant on Civil and Political Rights, noting that administrative detention raises a severe risk of arbitrary deprivation of liberty and should be employed only in exceptional circumstances, when a present, direct and imperative threat justifies its use, and for a limited time. Concerns have been raised over legislation and practice in some jurisdictions, however, which allow for various forms of preventive or pre-trial detention without appropriate safeguards, including by extending the permissible period of pre-charge detention for persons suspected of terrorist activity and the length of time a person may be held without judicial authorization or review of the reasons for detention.[69] As a result, individuals accused of terrorist activity have been held for prolonged periods without charge or trial, in some cases without proper access to legal counsel or recourse to independent judicial review. Such measures are inconsistent with international human rights standards; they also significantly increase the risk of torture and other ill-treatment and preclude accountability where such violations are perpetrated.[70]

43. United Nations human rights mechanisms have highlighted a number of situations in which safeguards against torture and other cruel, inhuman and degrading treatment or punishment are not put in place, with particular implications in the counter-terrorism context. Torture and ill-treatment are reportedly practised by law enforcement and other security officials on a regular basis in some jurisdictions as a means to elicit confessions or obtain information, including in the counter-terrorism context, and confessions obtained under duress have been used as evidence in court.[71] The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has observed that the rise of terrorism and organized crime has given way to an increasing tolerance of violent political narratives and popular beliefs that not only trivialize torture and other cruel, inhuman or degrading treatment or punishment, but even promote and incite their use in the name of national security and the fight against terrorism.[72] A reliance on diplomatic assurances to justify the deportation of foreign nationals suspected of terrorism-related offences to countries where it is reported that they may face a real

[66] See A/HRC/28/28; and A/70/330.
[67] A/70/330, para. 73.
[68] See CCPR/C/GBR/CO/7.
[69] See, for example, CCPR/C/GBR/CO/7; CCPR/C/FRA/CO/5; CCPR/C/POL/CO/7; CCPR/C/MAR/CO/6; CCPR/C/SUR/CO/3; CAT/C/JOR/CO/3; and CAT/C/IRQ/CO/1.
[70] See A/HRC/28/28.
[71] See A/71/298; CCPR/C/IRQ/CO/5; CAT/C/LKA/CO/5; A/HRC/34/54/Add.2; A/HRC/33/51/Add.2; and A/HRC/34/53/Add.3.
[72] See A/HRC/34/54, para. 14.

risk of torture or other forms of ill-treatment also has been raised as an issue of concern.[73]

V. Conclusions and recommendations

44. The promotion and protection of human rights plays a critical role in preventing violent extremism and countering terrorism. Examples of good practice include policies and laws that combat social exclusion and marginalization as essential elements in the effective prevention and countering of violent extremism.[74] The promotion of tolerance, pluralism, inclusion and participation of all communities in a society, including through the engagement of women and youth and good-quality education based on human rights, can help to prevent extremist violence and acts of terrorism.

45. By the same token, measures to ensure respect for human rights contribute to effective counter-terrorism by serving to prevent human rights violations, uphold the rule of law and secure public trust in the justice system, through investment in institutions and processes that are accountable, effective and legitimate. Legislation, policies and programmes to counter terrorism that are designed and implemented in a manner that complies with human rights standards help to ensure accountability, while avoiding the vicious circle in which the measures taken risk exacerbating the very phenomenon they are aimed at preventing.

46. Through its active engagement on these issues, the United Nations has made important progress in addressing the wide-ranging implications for human rights of security-related policies and practices, representing an invaluable resource for risk analysis, early warning and technical cooperation, as well as providing practical guidance for States and other duty-bearers in the counter-terrorism context. The newly established Office of Counter-Terrorism is well placed to enhance coordination and coherence across the entities of the Counter-Terrorism Implementation Task Force in supporting the efforts of Member States to ensure that their counter-terrorism measures are rooted in respect for their obligations under international human rights law, as well as to encourage the Task Force and its working groups to incorporate a human rights perspective into their work.

47. Prevention must involve the adoption by States of specific measures to ensure that counter-terrorism laws, policies and practices are aligned with international law, including human rights law. Accountability for violations of international human rights law and of international humanitarian law in the context of countering terrorism should also be ensured through prompt, independent and effective investigation in order to ensure that justice is served, to provide redress to victims and to prevent further violations. To this end, Member States are recommended:

(a) To ensure that violations and abuses of international human rights law and, as applicable, international humanitarian law are prevented and/or not repeated, including through the prompt, thorough, independent and impartial investigation of alleged violations and abuses, as well as the prosecution and punishment of perpetrators in accordance with international human rights standards;

[73] See CCPR/C/GBR/CO/7.
[74] See A/HRC/33/29.

(b) To ensure respect for the rights of victims to reparation, truth and justice, in line with international human rights standards. States should consider the sharing of lessons learned and good practices in this regard, including national legislation, compensation, rehabilitation and assistance schemes and studies in order to better protect and promote the human rights of victims;

(c) To ensure that national counter-terrorism legislation is limited to the countering of terrorism as properly and precisely defined on the basis of the provisions reflected in the international counter-terrorism instruments, with strict adherence to the principle of legality;

(d) To undertake a regular review to ensure the compliance of national counter-terrorism laws and practices with international human rights standards, including those related to due process, such as the right to a fair trial, the rights to freedom of opinion, expression, peaceful assembly and association, and the right to privacy, in order to ensure that counter-terrorism measures are specific, necessary, effective and proportionate. This may involve reviewing counter-terrorism legislation before its adoption, incorporating time limitations into such laws, establishing procedural safeguards and independent oversight bodies for law enforcement and intelligence agencies and conducting periodic reviews of sanction measures. The validity of any exceptional measure should be restricted in time through the inclusion of a sunset clause;

(e) To take further steps towards the prevention of torture and other cruel, inhuman and degrading treatment or punishment through the adoption of laws prohibiting their use and providing for the prosecution of those who violate such laws; ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and implement procedural safeguards, such as registers in places of detention and video recordings of interrogations, and ensure independent oversight, including regular monitoring of places of detention by independent bodies;

(f) To ensure that adequate procedural safeguards and oversight of interception and surveillance are in place and establish prior judicial authorization of surveillance as the norm;

(g) To provide for oversight and accountability in international counter-terrorism cooperation, including through the extension of external oversight to ensure that cooperation between law enforcement, investigative officials and intelligence services does not result in a weakening of human rights protection;

(h) To ensure that national and regional plans of action to prevent violent extremism are consistent with their international human rights obligations and aligned with relevant national human rights action plans;

(i) To enhance financial and political support for the capacity-building initiatives of the United Nations under all four pillars of the Global Strategy in a balanced manner, which would then benefit measures to ensure the respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.

United Nations A/72/317

General Assembly

Distr.: General
11 August 2017

Original: English

Seventy-second session
Item 72 of the provisional agenda*
Right of peoples to self-determination

Right of peoples to self-determination

Report of the Secretary-General

Summary

In its resolution 71/183, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-second session on the universal realization of the right of peoples to self-determination. The present report is submitted in accordance with that request.

The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report on the question (A/71/326).

* A/72/150.

17-13857 (E) 210817

Please recycle

I. Introduction

1. The General Assembly, in paragraph 1 of its resolution 71/183, reaffirmed that the universal realization of the right to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights.

2. The present report is submitted in accordance with paragraph 6 of resolution 71/183, in which the General Assembly requested the Secretary-General to report to it on the question at its seventy-second session.

3. The report provides a summary of the main developments relating to the realization of the right to self-determination within the framework of the activities of the main organs of the United Nations since the submission of the previous report (A/71/326).

4. The report also includes reference to the consideration of the issue within the framework of the Human Rights Council, both in its resolutions and in the reports submitted to the Council by special procedures mandate holders and the Expert Mechanism on the Rights of Indigenous Peoples.

5. In addition, it includes reference to concluding observations issued by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which are based on their consideration of periodic reports submitted by the States parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in respect of the implementation of the right of all peoples to self-determination guaranteed in common article 1 of the two Covenants.

II. Security Council

6. In accordance with Security Council resolution 2285 (2016), the Secretary-General submitted to the Council a report on the situation concerning Western Sahara (S/2017/307). The report covered developments since the previous report dated 19 April 2016 (S/2016/355) and provided a description of the situation on the ground, the status and progress of the political negotiations on Western Sahara, the implementation of Security Council resolution 2285 (2016) and the existing challenges to the operations of the United Nations Mission for the Referendum in Western Sahara and steps taken to address them. The Secretary-General noted that in resolutions adopted since 2007, the Security Council has directed the Secretary-General to facilitate direct negotiations between the parties to reach "a mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara" (see S/2017/307, para. 81).

7. Having considered the aforementioned report of the Secretary-General, the Security Council adopted its resolution 2351 (2017). In paragraph 8 of the resolution, the Council called upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noted the role and responsibilities of the parties in this respect.

III. General Assembly

8. During the reporting period, in addition to its resolution on the universal realization of the right of peoples to self-determination (resolution 71/183), the General Assembly adopted a number of resolutions in which it addressed the issue of self-determination. The resolutions concern Non-Self-Governing Territories, the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and the right of the Palestinian people to self-determination. In addition, in paragraph 6 (a) of its resolution 71/190, the Assembly affirmed that a democratic and equitable international order requires, inter alia, the realization of the right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development.

A. Non-Self-Governing Territories

9. In its resolution 71/103, the General Assembly reaffirmed the right of the peoples of Non-Self-Governing Territories to self-determination and their right to the enjoyment of their natural resources and to dispose of those resources in their best interest. It affirmed the value of foreign economic investment undertaken in collaboration with the peoples of the Non-Self-Governing Territories and in accordance with their wishes in order to make a valid contribution to the socioeconomic development of the Territories, especially during times of economic and financial crisis. It reaffirmed the responsibility of the administering Powers under the Charter to promote the political, economic, social and educational advancement of the Non-Self-Governing Territories and reaffirmed the legitimate rights of their peoples over their natural resources. The Assembly reaffirmed its concern about any activities aimed at the exploitation of the natural resources that are the heritage of the peoples of the Non-Self-Governing Territories, including the indigenous populations, in the Caribbean, the Pacific and other regions, and of their human resources, to the detriment of their interests, and in such a way as to deprive them of their right to dispose of those resources. It reaffirmed the need to avoid any economic and other activities that adversely affected the interests of the peoples of the Non-Self-Governing Territories, and reminded the administering Powers of their responsibility and accountability vis-à-vis any detriment to the interests of the peoples of those Territories. The Assembly invited all Governments and organizations of the United Nations system to take all possible measures to ensure that the permanent sovereignty of the peoples of the Non-Self-Governing Territories over their natural resources was fully respected and safeguarded. It urged the administering Powers concerned to take effective measures to safeguard and guarantee the inalienable right of the peoples of the Non-Self-Governing Territories to their natural resources and to establish and maintain control over the future development of those resources, and requested the administering Powers to take all steps necessary to protect the property rights of the peoples of those Territories. It also called upon the administering Powers concerned to ensure that no discriminatory working conditions prevailed in the Territories under their administration and to promote in each Territory a fair system of wages applicable to all the inhabitants without any discrimination.

10. In its resolution 71/104, the General Assembly reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples. In its resolution 71/105, the

Assembly invited all States to make or continue to make offers of study and training facilities to the inhabitants of those Territories that had not yet attained self-government or independence and, wherever possible, to provide travel funds to prospective students.

11. In its resolution 71/106 on the question of Western Sahara, the General Assembly expressed support for the process of negotiations initiated by the Security Council to achieve a just, lasting and mutually acceptable political solution, which would provide for the self-determination of the people of Western Sahara, and commended the efforts undertaken by the Secretary-General and his Personal Envoy for Western Sahara in that respect. It welcomed the commitment of the parties to continue to show political will and work in an atmosphere propitious for dialogue, in order to enter into a more intensive phase of negotiations, in good faith and without preconditions.

12. In its resolution 71/107 on the question of Tokelau, the General Assembly acknowledged the decision of the General Fono in 2008 that consideration of any future act of self-determination by Tokelau would be deferred. It noted the intention of Tokelau to further review its National Strategic Plan in order to determine development and other priorities beyond 2015 and to include consideration of the issue of self-determination and how the Territory would address a possible referendum on self-determination in cooperation with the administering Power.

13. In its resolution 71/108 on the question of American Samoa, the General Assembly reaffirmed the inalienable right of the people of American Samoa to self-determination, and also reaffirmed that it was ultimately for the people of American Samoa to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It welcomed the work of the territorial Government with respect to moving forward on political status, local autonomy and self-governance issues with a view to making political and economic progress, and also welcomed the establishment in April 2016 of the Office of Political Status, Constitutional Review and Federal Relations.

14. In its resolution 71/109 on the question of Anguilla, the General Assembly reaffirmed the inalienable right of the people of Anguilla to self-determination, and also reaffirmed that it was ultimately for the people of Anguilla to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

15. In its resolution 71/110 on the question of Bermuda, the General Assembly reaffirmed the inalienable right of the people of Bermuda to self-determination, and also reaffirmed that it was ultimately for the people of Bermuda to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

16. In its resolution 71/111 on the question of the British Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the British Virgin Islands to self-determination, and also reaffirmed that it was ultimately for the people of the British Virgin Islands to determine freely their future political status.

In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

17. In its resolution 71/112 on the question of the Cayman Islands, the General Assembly reaffirmed the inalienable right of the people of the Cayman Islands to self-determination, and also reaffirmed that it was ultimately for the people of the Cayman Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

18. In its resolution 71/113 on the question of Guam, the General Assembly reaffirmed the inalienable right of the people of Guam to self-determination, and also reaffirmed that it was ultimately for the people of Guam to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It called once again on the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in Guam law regarding Chamorro self-determination efforts, encouraged the administering Power and the territorial Government to enter into negotiations on the matter, and stressed the need for continued close monitoring of the overall situation in the Territory.

19. In its resolution 71/114 on the question of Montserrat, the General Assembly reaffirmed the inalienable right of the people of Montserrat to self-determination, and also reaffirmed that it was ultimately for the people of Montserrat to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

20. In its resolution 71/115 on the question of Pitcairn, the General Assembly reaffirmed the inalienable right of the people of Pitcairn to self-determination, and also reaffirmed that it was ultimately for the people of Pitcairn to determine freely their future political status. In that connection the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination. It welcomed all efforts by the administering Power and the territorial Government that would further devolve operational responsibilities to the Territory, with a view to gradually expanding self-government, including through the training of local personnel.

21. In its resolution 71/116 on the question of Saint Helena, the General Assembly reaffirmed the inalienable right of the people of Saint Helena to self-determination, and also reaffirmed that it was ultimately for the people of Saint Helena to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

22. In its resolution 71/117 on the question of the Turks and Caicos Islands, the General Assembly reaffirmed the inalienable right of the people of the Turks and Caicos Islands to self-determination, and further reaffirmed that it was ultimately for the people of the Turks and Caicos Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

23. In its resolution 71/118 on the question of the United States Virgin Islands, the General Assembly reaffirmed the inalienable right of the people of the United States Virgin Islands to self-determination, and further reaffirmed that it was ultimately for the people of the United States Virgin Islands to determine freely their future political status. In that connection, the Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster awareness among the people of their right to self-determination.

24. In its resolution 71/119 on the question of New Caledonia, the General Assembly reaffirmed that it was ultimately for the people of New Caledonia to determine freely and fairly their future political status, and called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of their right to self-determination in conformity with the legitimate political status options. The Assembly expressed the view that adequate measures for conducting the upcoming consultations on access to full sovereignty, including a just, fair, credible and transparent electoral roll, as provided in the Nouméa Accord, were essential for the conduct of a free, fair and genuine act of self-determination consistent with the Charter and United Nations principles and practices. In that respect, it welcomed the continuous dialogue undertaken by the parties in the framework of the Committee of Signatories to the Nouméa Accord to establish the parameters for the conduct of a conclusive act of self-determination, including the setting of an electoral roll, as provided in the Accord. It called upon the administering Power to consider developing an education programme to inform the people of New Caledonia about the nature of self-determination so that they may be better prepared to face a future decision on the matter. The Assembly urged all the parties involved, in the interest of the people of New Caledonia and within the framework of the Nouméa Accord, to maintain their dialogue in a spirit of harmony and mutual respect in order to continue to promote a framework for the peaceful progress of the Territory towards an act of self-determination in which all options were open and which would safeguard the rights of all sectors of the population, based on the principle that it was for the people of New Caledonia to choose how to determine their destiny.

25. In its resolution 71/120 on the question of French Polynesia, the General Assembly reaffirmed the inalienable right of the people of French Polynesia to self-determination, and also reaffirmed that it was ultimately for the people of French Polynesia to determine freely their future political status. The Assembly called upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of French Polynesia of their right to self-determination, and to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination would be agreed.

B. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

26. In its resolution 71/182, the General Assembly urged all States to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control were not used for, and that their nationals did not take part in, the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in accordance with the right of peoples to self-determination. It requested the Working Group of the Human Rights Council on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to continue to study and identify sources and causes, emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination. It also requested the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and to render advisory services to States that were affected by those activities.

C. Right of the Palestinian people to self-determination

27. The right of the Palestinian people to self-determination, including the right to their independent State of Palestine, was reaffirmed by the General Assembly in its resolution 71/184. In the resolution, the Assembly also urged States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination. The Assembly also called for the realization of the Palestinian people's human rights, including the right to self-determination, in its resolutions 71/23, 71/95 and 71/98.

28. In its resolution 71/20, the General Assembly, having considered the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (A/71/35), requested the Committee, inter alia, to continue to exert all efforts to promote the realization of the inalienable rights of the Palestinian people, including their right to self-determination. The Assembly invited all Governments and organizations to extend their cooperation and support to the Committee in the performance of its tasks, recalling its repeated call for all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination, including the right to their independent State of Palestine.

29. The economic aspect of the right to self-determination, namely, the right of peoples to sovereignty over their natural resources, was reaffirmed by the General Assembly with regard to the Palestinian people in its resolution 71/247.

IV. Economic and Social Council

30. In its resolution 2016/20, the Economic and Social Council either recommended or requested a number of measures that specialized agencies and other organizations of the United Nations system should adopt in support of

Non-Self-Governing Territories. The Council reaffirmed that the recognition by the General Assembly, the Security Council and other United Nations organs of the legitimacy of the aspirations of the peoples of the Non-Self-Governing Territories to exercise their right to self-determination entailed, as a corollary, the extension of all appropriate assistance to those peoples, on a case-by-case basis.

V. Human Rights Council

A. Resolutions

31. At its thirty-second session, held from 13 June to 1 July and on 8 July 2016, the Human Rights Council adopted resolution 32/33 on human rights and climate change. In the resolution, the Council emphasized that the adverse effects of climate change had a range of implications, both direct and indirect, for the effective enjoyment of human rights, including for the right to self-determination.

32. At its thirty-third session, held from 13 to 30 September 2016, the Human Rights Council adopted resolution 33/4 on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. In the resolution, the Council condemned mercenary activities, in particular in areas of conflict, and the threat they posed to the integrity of and respect for the constitutional order of countries and the exercise of the right to self-determination. It urged all States to take the necessary steps and to exercise the utmost vigilance against the threat posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training, protection and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self determination. It also reiterated its request to the Office of the United Nations High Commissioner for Human Rights to publicize the adverse effects of the activities of mercenaries and private companies offering military assistance, consultancy and other military and security-related services on the international market on the right of peoples to self-determination and render advisory services to States that were affected by those activities.

33. In its resolution 33/3 on the promotion of a democratic and equitable international order, adopted at the same session, the Human Rights Council reaffirmed the right of all peoples to self-determination, by virtue of which they could freely determine their political status and freely pursue their own economic, social and cultural development.

34. At its thirty-fourth session, held from 27 February to 24 March 2017, the Human Rights Council addressed the question of the realization of the right of the Palestinian people to self-determination in its resolutions 34/29, 34/30 and 34/31. In its resolution 34/29, the Council reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine. It confirmed that the right of the Palestinian people to permanent sovereignty over their natural wealth and resources must be used in the interest of their national development, the well-being of the Palestinian people and as part of the realization of their right to self-determination, and urged all States to adopt measures, as required, to promote the realization of the right to self-determination

of the Palestinian people and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of this right. In its resolution 34/30, the Council stressed the need for Israel to withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, so as to enable the Palestinian people to exercise their universally recognized right to self-determination. In its resolution 34/31, the Council called upon Israel to put an end to all of the human rights violations linked to the presence of settlements, especially of the right to self-determination, and to fulfil its international obligations to provide effective remedy for victims.

B. Special procedures and the Expert Mechanism on the Rights of Indigenous Peoples

35. In her report to the General Assembly at its seventy-first session, the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples provided a thematic analysis of conservation measures and their impact on indigenous peoples' rights (see A/71/229). The Special Rapporteur noted that taking stock of the standing in international law of indigenous peoples' rights in relation to conservation required consideration of the interrelatedness of self-determination and cultural and property rights (ibid., para. 20). She stated that self-determination was considered an overarching right to indigenous peoples because of its cross-cutting nature and because it affirmed their right to freely pursue their economic, social and cultural development (ibid., para. 22). In her report to the Council at its thirty-third session (A/HRC/33/42), she provided an analysis of the impacts of international investment agreements, including bilateral investment treaties and investment chapters of free trade agreements, on the rights of indigenous peoples. She noted that indigenous peoples were recognized as peoples vested with the right to self-determination (ibid., para. 13). She recommended that investment dispute settlement bodies addressing cases having an impact on indigenous peoples' rights should promote the convergence of human rights and international investment agreements by, among other things, acknowledging the profound impacts of large-scale projects on indigenous peoples' self-determination rights and well-being (ibid., para. 96). She also recommended that host States comply with their duty to regulate in relation to indigenous peoples' right to self-determination, by virtue of which indigenous peoples could determine their own social, cultural and economic development and maintain and develop their institutions, customs and decision-making processes (ibid., para. 103).

36. In his report to the Human Rights Council at its thirty-third session, the Independent Expert on the promotion of a democratic and equitable international order noted that States parties to the International Covenant on Civil and Political Rights had an obligation to promote the realization of the right of self-determination and could not thwart it by entering into commercial agreements that effectively deprive peoples of their natural resources or entail land-grabbing or population displacement (A/HRC/33/40, para. 19).

37. In its report to the General Assembly at its seventy-first session, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination noted that both mercenaries and foreign fighters could exert specific influence on national self-determination (A/71/318, para. 75). It observed that foreign fighters, who might fight for insurgent and revolutionary groups, often fought for national self-determination or a specific political vision of the State, and might subvert or support self-determination (ibid., para. 76). The Working Group further observed in its report that the specific question of national self-determination might be less important than the fact that in

some cases the international community or significant portions thereof might support foreign fighters in their efforts to overthrow sovereign States (ibid.).

38. In his report to the Human Rights Council at its thirty-fourth session, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 examined the current human rights situation in the Occupied Palestinian Territory, with a particular emphasis on the role and challenges faced by human rights defenders (A/HRC/34/70). He considered that legislation related to the legalisation of outposts suggested an ever-shrinking opportunity for Palestinians to realize their right to self-determination (ibid., para. 8). In relation to Gaza, the Special Rapporteur referred to restrictions on movement and said that such restrictions negatively affected the right of Palestinians to self-determination (ibid., para. 20).

39. In its report to the General Assembly at its seventy-first session, the Working Group on the issue of human rights and transnational corporations and other business enterprises acknowledged that a number of companies had recognized the ethical and practical imperatives for the commitment to respect free, prior and informed consent, and that several had made this commitment without differentiating between indigenous or non-indigenous peoples (A/71/291, para. 74). The Working Group stated in its report that given the distinctive characteristics of indigenous peoples and their collective self-determination rights, the implementation of this commitment would necessarily be different in a local community that did not have its own institutional structures and customary laws and processes (ibid.).

40. In her report to the Human Rights Council at its thirty-fourth session, the Special Rapporteur in the field of cultural rights stated that cultural rights, understood as fully integrated within the human rights system, called for free self-determination of individuals, respect for cultural diversity, universality and equality (A/HRC/34/56, para. 95).

41. The Expert Mechanism on the Rights of Indigenous Peoples presented to the Human Rights Council at its thirty-third session its summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples (A/HRC/33/58). The summary provided details on the responses from States regarding specific legislative, policy or administrative measures relating to self-determination and autonomy (ibid., paras. 16-24). At the same session, the Expert Mechanism on the Rights of Indigenous Peoples also presented to the Council the report containing the study on the right to health and indigenous peoples with a focus on children and youth (A/HRC/33/57). It was stated in the study that the right to health is, among other things, a central component of indigenous peoples' self-determination (ibid., para. 18). In its advice No. 9 on the right to health and indigenous peoples, the Expert Mechanism advised indigenous peoples to strengthen advocacy efforts for the recognition of indigenous health rights and rights to self-determination (ibid., annex, para. 29).

VI. Human rights treaty bodies

42. The right of all peoples to self-determination is affirmed in article 1, paragraph 1, of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is in this context that the right to self-determination has been addressed by the Committee on

Economic, Social and Cultural Rights and the Human Rights Committee,[1] in their consideration of the periodic reports of States parties. The relevant concluding observations adopted during the reporting period are highlighted below.

A. Concluding observations by the Committee on Economic, Social and Cultural Rights

43. In its concluding observations on the fifth periodic report of Costa Rica (E/C.12/CRI/CO/5), adopted at its fifty-ninth session, held from 19 September to 7 October 2016, the Committee on Economic, Social and Cultural Rights was concerned about the failure to consistently respect the right of indigenous peoples to prior consultation with a view to obtaining their free, prior and informed consent in respect of decision-making processes that may affect their ability to exercise their rights, in particular their economic, social and cultural rights. The Committee was also concerned that the bill on the autonomous development of the indigenous peoples had not yet been passed into law and that, although the State had recognized indigenous territories, in practice many of those territories were occupied by non-indigenous persons, which gave rise to serious conflicts. The Committee recommended that Costa Rica ensure that indigenous peoples are regularly consulted with a view to obtaining their free, prior and informed consent in respect of decision-making processes that may affect their ability to exercise their economic, social and cultural rights; expedite discussions in the Legislative Assembly on the bill on the autonomous development of the indigenous peoples and set a specific time frame for the speedy enactment of the bill; and ensure and protect the right of indigenous peoples to own, use, develop and control the lands, territories and natural resources that they possess, including through such legal recognition and protection as may be necessary, and ensure that lands occupied by non-indigenous persons are returned to them (ibid., paras. 8 and 9).

44. In its concluding observations on the combined fifth and sixth periodic reports of the Philippines (see E/C.12/PHL/CO/5-6), also adopted at its fifty-ninth session, the Committee noted the efforts made by the State party to protect the rights of indigenous peoples but was concerned at the conflicts between the protection of indigenous peoples' ancestral lands under sections 5 and 56 of the 1997 Indigenous Peoples' Rights Act and the provisions of the 1995 Mining Act and the 1974 Forestry Reform Code of the Philippines, as well as the delay in adopting the National Land Use Bill; the unsatisfactory implementation of the Indigenous Peoples' Rights Act as regards the demarcation and registration of indigenous peoples' territories; the limited mandate and capacity of the National Commission on Indigenous Peoples and the doubts that had been expressed concerning its ability to function as a truly independent body for the promotion and protection of the rights of indigenous cultural communities and indigenous peoples; the failure of the State party to uphold the right to free, prior and informed consent of indigenous peoples for any change to the use of their lands and territories and to implement the mandatory representation of indigenous peoples in local decision-making bodies; the displacement of indigenous peoples, particularly those in Mindanao, owing to the armed conflict and intertribal conflicts, as well as extractive and logging operations; and the limited access of indigenous peoples to health care, education and other basic services (ibid., para. 13).

45. The Committee recommended that the Philippines should fully implement the 1997 Indigenous Peoples' Rights Act to ensure that, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, indigenous peoples' rights

[1] See also Human Rights Committee, general comment No. 12 (see HRI/GEN/1/Rev.9 (Vol. I)).

to their lands, territories and resources are fully recognized and protected and that their free, prior and informed consent is obtained in respect of the adoption of any legislation, policy or project affecting their lands or territories and other resources; prioritize the adoption of the National Land Use Bill and ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169); strengthen the mandate and the capacity of the National Commission on Indigenous Peoples and take all measures necessary to enhance its independence and effectiveness, with a view to restoring its credibility among indigenous peoples; take the steps necessary to ensure the registration of indigenous lands, including through improving the collective land title claim process; ensure that the free, prior and informed consent of the indigenous peoples concerned is obtained before granting licences to private companies; and that indigenous peoples are represented by their own chosen representatives on local decision-making bodies, such as local mining boards and development units; adopt appropriate measures to mitigate the impact of armed conflicts, including intertribal conflicts, and natural disasters on indigenous peoples; and take all measures necessary to ensure the full access of indigenous peoples to health care, education and other basic services (ibid., para. 14).

46. In its response to the concerns raised by the Committee, the Philippines provided some additional information on matters concerning indigenous peoples, specifically in relation to the consultation of indigenous peoples and the obtaining of free, prior and informed consent in relation to decision-making processes affecting their rights under the International Covenant on Economic, Social and Cultural Rights.[2]

B. Concluding observations by the Human Rights Committee

47. The Human Rights Committee adopted at its 118th session its concluding observations on the sixth periodic report of Morocco (CCPR/C/MAR/CO/6). The Committee took note of the Moroccan initiative for engaging in negotiations on autonomy for the Western Sahara region and the additional information provided by the State party but remained concerned about: the limited progress made in dealing with the issue of the self-determination of the people of Western Sahara; reports that the State party was not taking all necessary measures to consult the people of Western Sahara about the development of the natural resources of the Western Sahara; and the presence of the sand wall, also known as the "berm", which limits the freedom of movement of the people of Western Sahara given the very few crossing points that are open to civilians and the presence of landmines and other explosive remnants of war along the berm that endanger the lives and safety of the communities located in the vicinity. The Committee recommended that Morocco continue and increase the efforts undertaken within the framework of negotiations concerning the status of the Western Sahara under the auspices of the Secretary-General so that the people of the Western Sahara may enjoy their right to self-determination; enhance meaningful consultations with the people of Western Sahara with a view to securing their prior, free and informed consent for development projects and resource extraction operations; and take the necessary steps to permit the people of Western Sahara to move about freely and safely on both sides of the berm, continue implementation of the demining programme along the berm and compensate victims (ibid., paras. 9 and 10).

[2] See Philippines — Follow-up to fifth and sixth periodic reports to the Committee on Economic, Social and Cultural Rights, available at http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/PHL/INT_CESCR_COB_PHL_26757_E.pdf.

VII. Conclusions

48. **The right of peoples to self-determination is enshrined in article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which states that all peoples have the right of self-determination and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.**

49. **During the reporting period, the main organs of the United Nations, including the Security Council, the General Assembly, and the Economic and Social Council, continued to discuss and adopt resolutions that referred to the right. The Human Rights Council, a subsidiary organ of the General Assembly, also continued to discuss and adopt resolutions that referred to the right.**

50. **The special procedures of the Human Rights Council and the Expert Mechanism on the Rights of Indigenous Peoples also discussed the implementation of the right to self-determination, in particular in relation to the human rights challenges faced by indigenous peoples, the interrelatedness of self-determination and cultural and property rights in this context and the right to health as a central component of indigenous peoples' self-determination.**

51. **The human rights treaty bodies addressed the right to self-determination through concluding observations on the periodic reports submitted by States parties to relevant treaties.**

52. **All States have an obligation to promote the realization of the right to self-determination and to respect that right, in conformity with the provisions of the Charter of the United Nations. In addition, as noted by the Human Rights Committee in relation to the International Covenant on Civil and Political Rights, the current 169 States parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination.[3] Such positive action must be consistent with the obligations of States under the Charter and international law. In particular, States must refrain from interfering in the internal affairs of other States and thereby adversely affecting the exercise of the right to self-determination. The effective implementation of the right to self-determination will contribute to greater enjoyment of human rights, peace and stability, and thereby prevent conflict.**

[3] See Human Rights Committee, general comment No. 12, para. 6 (see HRI/GEN/1/Rev.9 (Vol. I)); see also Committee on the Elimination of Racial Discrimination, general recommendation XXI, para. 3 (see HRI/GEN/1/Rev.9 (Vol. II)).